Office - Supreme Court, U.S
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ALEXANDER L. STEVAS

No. 83-436

In the Supreme Court of the United States

OCTOBER TERM, 1983

DONALD REGAN, SECRETARY OF THE TREASURY, ET AL.

v.

RUTH WALD, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED SEPTEMBER 14, 1983
CERTIORARI GRANTED NOVEMBER 28, 1983

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

Date	Proceedings
6/17/82	Complaint for Declaratory and Injunctive Relief; Notice of Motion for Preliminary Injunction
6/23/82	Motion for Temporary Restraining Order on behalf of Plaintiff Bradley
6/25/82	Temporary Restraining Order issued
7/16/82	Magistrate's Report and Recommendation re Plaintiffs' Motions for Preliminary Injunction
7/22/82	District Court Decision Denying Plaintiffs' Motion for Preliminary Injunction
8/19/82	Notice of Appeal
5/16/83	Court of Appeals' Decision Vacating District Court's Order and Remanding with Instructions to Issue a Preliminary Injunction
6/16/83	Court of Appeals' Memorandum and Order Denying Petition for Rehearing and Denying Stay of Mandate
6/23/83	Application for Stay of Mandate filed in Supreme Court
7/ 6/83	Order of Supreme Court granting stay of mandate
9/14/83	Petition for a Writ of Certiorari filed
11/28/83	Order of Supreme Court granting petition for a writ of certiorari

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civ. No. ———

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LINDA TURNER
1126 West Wolfman Street
Chicago, Illinois 60657
(312) 327-0006, PLAINTIFFS

—against—

DONALD REGAN,
Secretary of the Treasury,
Department of the Treasury
Washington, D.C. 20220;

JOHN M. WALKER, JR.,
Assistant Secretary of the Treasury
Department of the Treasury
Washington, D.C. 20220;

DENNIS M. O'CONNELL,
Director, Office of Foreign Assets Control,
Department of the Treasury
Washington, D.C. 20220;

ALEXANDER M. HAIG, JR.,
Secretary of State
Washington, D.C. 20520;

RONALD WILSON REAGAN,
President of the United States
The White House
Washington, D.C. 20500, DEFENDANTS

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

(Statutory and Constitutional Rights)

I. *INTRODUCTION*

1. This is an action seeking an order declaring illegal, defendants' new restrictions on travel-related transactions with Cuba, 32 C.F.R. 515.560 (April 20, 1982) and enjoining their implementation. The new restrictions are not authorized by the Trading With the Enemy Act, 50 U.S.C. App. § 5; violate express limitations Congress has imposed in 22 U.S.C. § 211a on the Executive Branch's power to impose geographical restrictions on travel; have been promulgated in violation of the International Emergency Economic Powers Act, 50 U.S.C. § 1701-06; and violate rights secured by the United States Constitution.

II. *JURISDICTION*

2. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337, and 1361, over causes of action arising under 5 U.S.C. §§ 701-706, 50 U.S.C. 1701, *et seq.*, and the First and Fifth Amendments to the Constitution of the United States.

3. Venue is proper under 28 U.S.C. § 1391(e).

III. *PARTIES*

4. Plaintiffs are:

(a) Ruth Wald, a citizen of the United States, residing in Cambridge, Massachusetts. She is a Professor of Biology at the Biological Laboratories of Harvard University. She plans to visit Cuba in August 1982, to meet and make political contact with Cuban women.

(b) Marian Lowe is a citizen of the United States, residing in Cambridge, Massachusetts. She is Associate

Professor of Chemistry at Boston University. She is curious about Cuba and plans to visit Cuba in August 1982, to talk with Cuban women.

(c) Rosario Morales is a citizen of the United States, residing in Cambridge, Massachusetts. She has friends in Cuba whom she plans to visit this summer, having travelled there twice previously, most recently in 1979 when she travelled with her husband who was hired by UNESCO to do ecological work in Cuba.

(d) Francis E. Bradley, a United States citizen residing in Newtown, Bucks County, Pennsylvania, is Assistant Headmaster of a secondary school operated by the Society of Friends (Quakers) in Bucks County, Pennsylvania. He plans to travel to Cuba on June 18, 1982 as the leader of a group of students from various Friends' schools. The purpose of the trip is educational, and the trip has been planned and organized since autumn, 1981. Defendants have verbally denied a written application for a license for Mr. Bradley and the Friends schools trip, although they have never received the written response which they have been told would be forthcoming. Mr. Bradley led a similar group of students to Cuba in 1978.

(e) The Reverend Alice Hageman, a United States citizen residing in Boston, Massachusetts is co-Pastor of the Church of the Covenant (United Church of Christ and United Presbyterian Church, USA) who plans to travel to Cuba in the summer of 1982. She has recently led a trip of laypeople and clergy and students to study religion in Cuba, and is already engaged in planning a similar trip in the summer of 1983. She has also been invited and plans to spend two weeks in Cuba in August, 1982. All of Rev. Hageman's expenses for that trip would be paid by Cuban residents in Cuban currency, and she would therefore spend no United States or other foreign currency during this trip to Cuba.

(f) Plaintiff the Cuba Resource Group is an unincorporated association serving as a resource and information

center about Cuba. Among the services that the Group provides are arranging tours and providing referral services as to what trips to Cuba are available. The Group receives and depends on financial remuneration for the services it provides for those services.

(g) Robert C. Howard, a citizen of the United States residing in Chicago, Illinois, cancelled his plans to travel to Cuba with his children in December 1982, as a result of the new regulation. The purpose of the trip was to enable Mr. Howard and his children to learn about the country, its people and culture.

(h) Plaintiff, The Center for Cuban Studies, is a not-for-profit corporation which has, for the past ten years, organized tours to Cuba of United States citizen journalists, psychiatric personnel, lawyers, Latin Americanists, economists, teachers, cultural workers, public health workers, women's groups and others who have engaged in general educational activities and in specific news gathering and research. As part of its program, it plans to send to Cuba in the future, individuals and groups of similar composition and character, who will engage in general educational activities in each discipline and who will meet with their counterparts in Cuba in informal and non-conference settings.

(i) Linda Turner, a citizen of the United States, residing in Chicago, Illinois, is a secretary. She plans to travel to Cuba this winter, as she has done for the past several years, in order to gain information necessary to her activities aimed at educating Americans about life in Cuba.

5. Defendants are:

(a) Donald Regan is sued in his official capacity as Secretary of the Treasury of the United States. He is responsible for the promulgation and enforcement of the challenged regulation.

(b) John M. Walker is sued in his official capacity as Assistant Secretary of the Treasury. Defendant Walker

approved the challenged regulation and is responsible for its enforcement.

(c) Dennis O'Connell is sued in his official capacity as Director of the Office of Foreign Assets Control of the Department of the Treasury. Defendant O'Connell promulgated the new regulation and is in charge of its enforcement.

(d) Alexander Haig, Jr., is sued in his official capacity as Secretary of State of the United States. On information and belief, the Department of State instigated and participated in the decision to issue the challenged regulation.

(e) Ronald Wilson Reagan is sued in his official capacity as President of the United States. Defendant Reagan is the sole officer of the United States with authority to prohibit certain transactions under the Trading With the Enemy Act and the International Emergency Economic Powers Act, and the challenged regulation has been issued pursuant to that authority.

IV. *STATEMENT OF THE CASE*

6. The Cuban Assets Control Regulations promulgated and enforced by defendants ban all transactions with Cuba except those especially authorized by regulation. 31 CFR Part 515. Violation of the Regulations is a felony punishable by imprisonment for not more than 10 years and/or a fine of not more than $50,000. 50 U.S.C. App. § 16.

7. Effective March 21, 1977, the Cuban Assets Control Regulations authorized "all transactions ordinarily incident to travel to and from . . . [and] in Cuba." 31 CFR § 515.560(a)(1, 2), 42 Fed. Reg. (March 29, 1977). Accordingly, persons subject to United States jurisdiction were free to engage in transactions incident to travel to, from and in Cuba.

8. On April 20, 1982, 31 CFR § 515.560 was amended to restrict travel-related transactions with Cuba by United States citizens and other persons subject to United States jurisdiction. The amendment became effective May 15, 1982.

9. As interpreted by defendants, § 515.560 bars all travel by United States persons to, from and in Cuba (other than those referred to in ¶¶ 11 and 12) even if their travel results in no transfer of currency to Cuba.

10. The effect of § 515.560 as amended was intended to be and will be to eliminate educational, religious, tourist and business travel to Cuba.

11. As now amended, § 515.560 includes a "general license" which authorizes travel to Cuba, without prior Treasury Department permission, solely for persons who fall into the following categories:

(a) United States or foreign officials or officials of inter-governmental organizations of which the United States is a member, provided that the officials are travelling on official business;

(b) Persons "travelling for the purpose of gathering news, making news or documentary films, engaging in professional research, or for similar activities; and

(c) Persons and their families "who are travelling to visit close relatives in Cuba".

12. All other persons desiring to travel to Cuba must apply for a specific license that will only be granted "in appropriate cases to persons desiring to travel to Cuba for humanitarian reasons, or for purposes of public performances, public exhibitions, or similar activities."

13. The Cuban Assets Control Regulations prevent plaintiffs from traveling and/or facilitating travel to Cuba in that either such travel does not fall within the exceptions to the restrictions on travel-related transactions

with Cuba or the regulations are so vague as to deter plaintiffs from engaging in or facilitating such travel.

14. The restrictions imposed by the amendment of § 515.560 are invalid and unlawful for the following reasons:

(a) The restrictions are intended to be and are geographical limitations on travel in violation of the restrictions Congress imposed on the Executive Branch's authority to institute such limitations in 22 U.S.C. § 211a;

(b) The restrictions are in excess of the authority conferred by the Trading With the Enemy Act, 50 U.S.C. App. § 5;

(c) The restrictions are in excess of the authority conferred by the International Emergency Economic Powers Act, 50 U.S.C. § 1701, *et seq.* [IEEPA];

(d) The restrictions have not been properly promulgated under IEEPA and are therefore void and of no effect;

(e) The restrictions are vague, in violation of the First and Fifth Amendments;

(f) The restrictions deprive plaintiffs of their First Amendment rights;

(g) The restrictions deprive plaintiffs of liberty, including the right to travel, without due process of law in violation of the Fifth Amendment;

(h) The restrictions are being administered by defendants without standards or proper procedures to guide their discretion, and in a discriminatory and arbitrary manner, in violation of the due process clause of the Fifth Amendment;

(i) The restrictions deprive plaintiffs of the equal protection of the laws in violation of the Fifth Amendment.

15. The restrictions have caused and will continue to cause plaintiffs irreparable injury, for which they have no adequate remedy at law.

PRAYER

WHEREFORE, plaintiffs request that the Court

16. (a) Declare the April 20, 1982 amendment of 31 C.F.R. § 515.560 invalid and unconstitutional on its face and as applied;

(b) Grant plaintiffs a preliminary and permanent injunction, prohibiting the enforcement of said amendment of 31 C.F.R. § 515.560, and enjoining defendants from interfering with plaintiffs' travel to Cuba; and

(c) Grant such other and further relief, including costs and attorneys' fees, as the Court may deem just and proper.

Dated: June 16, 1982.

/s/ Leonard B. Boudin
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ERIC M. LIEBERMAN
JULES LOBEL
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civ. No. 82-1690-T

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(312) 327-0006, PLAINTIFFS

—against—

DONALD REGAN,
Secretary of the Treasury,
Department of the Treasury
Washington, D.C. 20220;

JOHN M. WALKER, JR.,
Assistant Secretary of the Treasury
Department of the Treasury
Washington, D.C. 20220;

DENNIS M. O'CONNELL,
Director, Office of Foreign Assets Control,
Department of the Treasury
Washington, D.C. 20220;

ALEXANDER M. HAIG, JR.,
Secretary of State
Washington, D.C. 20520;

RONALD WILSON REAGAN,
President of the United States
The White House
Washington, D.C. 20500, DEFENDANTS

NOTICE OF MOTION FOR PRELIMINARY INJUNCTION

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit of Ruth Wald, sworn to the 7th day of June 1982, Marian Lowe, Reverand Alice Hageman and Linda Turner, sworn to the 8th day of June 1982, Francis E. Bradley and Robert Howard, sworn to the 4th day of June 1982, Karen Wald, sworn to the 5th day of June 1982, and Sandra Levinson and Harold A. Mayerson, sworn to the 14th day of June 1982, and upon all the pleadings and proceedings heretofore had herein, counsel for plaintiffs will move this court pursuant to Rule 65 of the Federal Rules of Civil Procedure, for an order, enjoining defendants pending the trial and disposition of this action, from enforcing the amendment to 31 C.F.R. 515.560 dated April 20, 1982 and enjoining defendants from interfering with plaintiffs' travel to Cuba.

Dated: New York, New York
June 16, 1982

Yours etc.,

/s/ Leonard B. Boudin
LEONARD B. BOUDIN
ERIC M. LIEBERMAN
JULES LOBEL
RABINOWITZ, BOUDIN, STANDARD,
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TO: United States Attorney
1107 John W. McCormack
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Boston, Massachusetts 02109

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civ. Action No. ———

RUTH WALD, ET AL., PLAINTIFFS

—against—

DONALD REGAN, ET AL., DEFENDANTS

AFFIDAVIT

COUNTY OF NEW YORK)
) SS.:
STATE OF NEW YORK)

HAROLD A. MAYERSON, being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice before the Courts of the State of New York and am a member of the firm of Mayerson and Smith, P.C., located in the City of New York.

2. During the last decade I have represented and counselled numerous individuals and groups who have traveled to Cuba with reference in United States laws and regulations governing travel between the two countries.

3. In addition, I have represented several domestic not-for-profit organizations and business enterprises including a travel agency which specializes in trips to Cuba, which have entered into commercial transactions with Cuba pursuant to either United States Department of Commerce or Treasury Department regulation.

4. Based upon the foregoing I have followed with great care virtually all aspects of United States-Cuba relations and have had numerous meetings and conversations with

officials of the United States Government, including the Department of State, the Department of the Treasury and the Department of Commerce.

5. On or about April 19, 1982, I was made aware of the promulgation of new regulations affecting travel by persons subject to the jurisdiction of the United States traveling to Cuba. I immediately arranged to meet with representatives of the Department of State and the Department of the Treasury and did so on April 20, 1982. I sought the above referred to meetings in order to better assist clients in understanding what type of travel to Cuba was affected by the new regulations.

6. At those meetings I inquired as to whether persons who traveled to Cuba, who did not fall within the category of a general licensee or had not received a specific license, without any financial benefits inuring to Cuba were proscribed from going. I was told by an official of the Office of Foreign Assets Control (OFAC) that he believed that such travel was barred by the new regulation.

7. As a result of my meeting with OFAC I sent a letter on April 27, 1982 stating my views on the meeting and my opinion on the new regulations. (See Exhibit A annexed hereto).

8. As of the date of this affidavit I have not received a written response to this letter. However, I have discussed the contents of my letter on numerous occasions with Raymond Konan, General Counsel of OFAC. He has informed me that it is the position of OFAC that no person subject to U.S. jurisdiction may travel to Cuba unless that person falls within the general license categories or receives a specific license. Mr. Konan stated that even if a person's travel results in no financial benefit to Cuba, through the transfer of currency, such travel is not authorized and such persons could be the subject of enforcement proceeding.

9. Notwithstanding my strenuous arguments that this interpretation of the regulation was contrary to the expressed intent of the new regulations which is to only

govern control of currency transfers to Cuba and not to ban travel, Mr. Konan maintained that this was the position of OFAC.

10. The press release issued by the Department of the Treasury on April 19, 1982, concerning the new travel restrictions to Cuba stated that the purpose of restrictions was to reduce the flow of hard currency to Cuba. (See Exhibit B annexed hereto). The press release further indicated that the new regulations would cut approximately forty percent (40%) of the present level of travel. Therefore, by the Department of the Treasury's estimate only eight million dollars ($8,000,000.00) that now flows to Cuba from travel will be cut off.

11. In addition, the recently enacted regulations make no mention of the substantial trade between the United States and Cuba that is presently permitted by the Department of the Treasury. From January 1980 through September 1981 the Office of Foreign Assets Control authorized United States overseas subsidiaries to buy or sell from and to Cuba goods and commodities with a total value of three hundred and seventy-six million dollars ($376,000,000.00).

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Harold A. Mayerson
HAROLD A. MAYERSON

Sworn to before me this
14th day of June, 1982
JAMIL GILBERT
NOTARY PUBLIC, State of New York
No. 4678704
Qualified in New York County
Term Expires March 20, 1984

NOTARY
Jamil Gilbert

EXHIBIT A

April, 27, 1982

Dennis O'Connell, Director
Office of Foreign Assets Control
U.S. Department of the Treasury
1331 G Street, N.W.
Washington, D.C. 20220

Dear Mr. O'Connell:

Thank you for the opportunity of meeting with you and your staff to discuss the recently enacted amendment to the Cuban Assets Control Regulations as they affect the right of persons subject to the jurisdiction of the United States to travel to Cuba.

Marazul Tours, Inc. (Marazul) has decided to remain in the business of sponsoring charter flights to Cuba and booking passengers on other airlines which fly to Cuba. However, one of its principle concerns in continuing this work is the manner in which your office will interpret the new regulation and what types of guidelines will be issued to enable United States businesses to fully understand their responsibilities under the new regulation. While we recognize that all questions of mutual concern will not fall into black and white areas it is important from a legal and business point of view to minimize the gray areas.

My analysis of the regulations have led me to the following conclusions which I have shared with my clients.

1. Charter air operations to Cuba sponsored by persons subject to the jurisdiction of the United States are permitted by the Cuban Foreign Assets Control Regulations.

2. Travel agencies, such as Marazul, may arrange for travel by persons subject to United States jurisdiction on scheduled or non-scheduled airlines within and without the United States and for land accommodations in Cuba unless they wilfully violate 31 CFR § 515.560.

3. All persons subject to the jurisdiction of the United States may travel to Cuba if they do not pay Cuba any funds either by way of air travel, i.e. through the use of Cubana or funds for their living expenses while in Cuba except that persons under subsection (a)(1) of the newly enacted 31 CFR § 515.560 may pay for air travel to and from Cuba and for living expenses while in Cuba.

At our meeting on April 22, 1982 the following areas of concern were raised by OFAC and Marazul.

A. What procedures should Marazul employ with reference to its employees or counsel who must travel to Cuba in order to facilitate the travel of persons subject to the jurisdiction of the United States to Cuba? I believe the simplest procedure would be for your office to issue a special license to Marazul Tours and its counsel Mayerson & Smith, P.C. for them to travel to Cuba for a period of six months and that a record of such travel be made available for inspection of OFAC pursuant to the Cuban Assets Control Regulations.

B. What obligations does Marazul have towards the enforcing of 31 CFR § 515.560? I have instructed my clients that they are permitted to handle air passage and land accommodation arrangements for persons wishing to go to Cuba. I have further instructed them that all employees of the corporation should familiarize themselves with the regulations and that the regulations should be made available to all customers who wish to see them. I have further instructed the employees of the corporation that they should not book any passengers who state to them that they are going to Cuba for tourist or business purposes without having received a specific license, and that if any person asks an employee of the corporation for an interpretation of the newly enacted regulation that the person should be referred to OFAC.

C. What constitutes persons engaged in "professional research or other similar activities"? With reference to visits to Cuba that involve *bona fide* study in that country, I have instructed my client that they may arrange

for travel and land accommodations for such groups and individuals. Attached is a sample list of study seminars that Marazul has conducted. I have instructed my client that such visits are permissable and that Marazul employees have no obligation to ascertain the credentials of persons who join said groups.

D. Who may Marazul assist in coming to the United States from Cuba? I have instructed Marazul that they may arrange travel for all persons located in Cuba who wish to travel to the United States provided that such persons have a United States visa, are traveling under a United States passport or are diplomats or persons who work for international organizations of which the United States is a member.

E. Can Marazul arrange for Cubans in the United States to return to Cuba? I have instructed my clients that they may arrange travel to Cuba for all residents of Cuba who are in the United States.

If you have any further questions or comments please feel free to communicate with me.

I remain,

Very truly yours,

HAROLD A. MAYERSON

HAM:tl
cc: Francisco Aruca
Gordon Johnson

SAMPLE STUDY TRIPS

1. Health Care Seminars—

   This seminar includes conferences with representatives of the Ministry of Public Health; visits to hospitals—maternity, pediatrics, psychiatric, orthopedic etc.; conferences with health providers, including physicians, nurses, paraprofessionals, psychiatrists and psychologists; and conferences with Cuban officials and citizens re: Cuba's innoculation and preventative health care system.

2. Religious Study Seminars—

   This seminar includes conferences with the Ecumenical Council of Cuba; meetings with church leaders of various denominations; visits to Protestant and Catholic seminaries; conferences with religious and lay persons with reference to the role the church enjoys in Cuba; conferences with representatives of the Cuban government; and attendance and participation in services.

3. University and High School Comparative Government Seminars—

   This seminar includes, visits to primary, secondary, technical school and universities; conferences with teachers, professors and students; conferences with representatives of the Ministries of Education and Higher Education; meetings with the Federation of Cuban Women; visits to health care facilities; visits to food production facilities and food distribution centers.

4. Architecture—Urban Planners—Housing Seminars—

   This seminar includes, visits to technical schools and universities where professionals and technicians are

trained; conferences with professors and students; conferences with respresentatives of the Ministry of Construction; conferences with architects, city planners, and construction worker conferences with trade union officials; and visits to construction sites and housing developments.

EXHIBIT B

TREASURY NEWS
Department of the Treasury
Washington, D.C.
Telephone 566-2000

Contact: Marlin Fitzwater
566-5252

U.S. RESTRICTS TRANSACTIONS RELATING TO TRAVEL TO CUBA

The Department of Treasury today announced new restrictions on travel-related transactions with Cuba. The effect will be to eliminate tourist and business travel to that country.

The restrictions will take effect on May 15.

John M. Walker, Jr., Assistant Secretary of the Treasury for Enforcement and Operations said: "Today's actions are an important part of this government's policy of tightening the current trade and financial embargo against Cuba and are designed to reduce Cuba's hard currency earnings from travel by persons subject to the jurisdiction of the United States."

The changes remove the general authorization for transactions connected with travel to Cuba and limit such authorization to three principal categories of travel: Official travel, travel by news media personnel and researchers, and humanitarian travel for purposes of family reunification with close relatives in Cuba.

Transactions relating to general tourist and business travel to Cuba are no longer authorized. However, Treasury authorization through specific licenses may be obtained in appropriate cases for persons wishing to travel to Cuba for humanitarian reasons other than family reunification or for purposes of participation in public performances or exhibitions.

The most recent twelve-month statistics indicate that approximately 38,000 people visited Cuba from the United States, of which approximately 40% travelled for purposes other than family reunification.

The current program restricting trade and financial transactions with Cuba dates back to 1963. Since then, all such transactions have been regulated by the Treasury Department's Office of Foreign Assets Control. Any transaction with Cuba by a U.S. company or individual must be authorized by a general or specific license from that Office.

DEPARTMENT OF THE TREASURY
Office of Foreign Assets Control
31 C.F.R. Part 515
Cuban Assets Control Regulations:

Travel-Related Transactions

AGENCY: Office of Foreign Assets Control

ACTION: Final Rule

SUMMARY: The Office of Foreign Assets Control is amending section 515.560 of the Cuban Assets Control Regulations to reduce Cuba's hard currency earnings from travel by U.S. persons to and within Cuba. As amended, the general license for travel-related transactions set forth in section 515.560 will be limited to travel for specified purposes, including official travel, visits to close relatives, and travel connected with research, newsgathering, or similar activities. Transactions relating to ordinary tourist or business travel will no longer be permitted. However, specific licenses may be granted in appropriate cases for humanitarian reasons or for purposes of public performances in Cuba, as in connection with cultural or sports-related activities.

The processing and payment of credit card instruments, and transactions in connection with the extension of credit to any person in Cuba, are no longer authorized.

EFFECTIVE DATE: May 15, 1982

FOR FURTHER INFORMATION: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, tel. (202) 376-0236.

SUPPLEMENTARY INFORMATION: Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

Similarly, because the amendment is issued with respect to a foreign affairs function of the United States, it is not subject to Executive Order 12291 of February 19, 1981, dealing with Federal regulations.

31 C.F.R. Part 515 is amended as follows:

Section 515.560 is amended to read as follows:

515.560 *Certain transactions incident to travel to and within Cuba.* [Amended]

(a)(1) *General License.* The transactions in paragraph (c) of this section are authorized in connection with travel to Cuba by (i) persons who are officials of the United States Government or of any foreign government, or of any intergovernmental organization of which the United States is a member, and who are traveling on official business; (ii) persons who are traveling for the purpose of gathering news, making news or documentary films, engaging in professional research, or for similar activities; or (iii) persons, and persons traveling with them who share a common dwelling as a family with them, who are traveling to visit close relatives in Cuba.

(2) For purposes of this section, the term "close relative" means spouse, child, grandchild, parent, grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, or spouse, widow, or widower of any of the foregoing.

(3) The general license contained in this section does not authorize transactions in connection with tourist travel to Cuba, nor does it authorize transactions in connection with business travel undertaken for any purposes other than those set forth in paragraph (a)(1) of this section.

(b) *Specific Licenses.* Specific licenses authorizing the transactions in paragraph (c) of this section will be issued in appropriate cases to persons desiring to travel to Cuba for humanitarian reasons, or for purposes of public performances, public exhibitions, or similar activities.

c) The following transactions are authorized in connection with travel to and within Cuba by persons licensed under paragraphs (a) and (b) of this section:

(1) All transportation-related transactions ordinarily incident to travel to and from Cuba.

(2) All transactions ordinarily incident to travel within Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there.

(3) The purchase in Cuba, and importation as accompanied baggage, of merchandise with a foreign market value not to exceed $100 per person. This authorization may be used only once in every six consecutive months. Single copies of publications do not count against the $100 limit set forth in this subparagraph. For purposes of this section, the term "publications" includes books, newspapers, magazines, films, phonograph records, tapes, photographs, microfilm, microfiche, posters, and similar materials. All merchandise and publications obtained pursuant to this subparagraph shall be for noncommercial use only and shall not be resold.

(4) All transactions by any person incident to arranging or assisting travel by any other person or group of persons to, from, or within Cuba. This authorization includes arranging through transportation to Cuba; selling passage aboard a foreign carrier providing regularly scheduled service to Cuba from points outside the United States; chartering an aircraft or vessel; arranging hotel accommodations, ground transportation, local tours and similar travel activities in Cuba; transfer of funds to Cuba or any national thereof; and receipt from Cuba or a national thereof of consideration for authorized services.

(5) All transactions concerning aircraft or vessels incidental to their nonscheduled flights or voyages to, from, or within Cuba. This subparagraph does not authorize the carriage of any merchandise to and from Cuba, ex-

cept accompanied baggage and merchandise, including publications, authorized by subparagraph (c)(13) of this section.

(6) All transactions incident to the processing and payment of checks, drafts, traveler's checks, and similar instruments negotiated in Cuba by any person under the authority of this section.

(d)(1) This section does not authorize the processing and payment by persons subject to U.S. jurisdiction, such as credit card issuers or intermediary banks, of credit card instruments (*e.g.*, vouchers, drafts, or sales receipts) for expenditures in Cuba, and does not authorize a domestic credit card issuer, or a foreign credit card firm owned or controlled by U.S. persons, to deal with a Cuban enterprise or with a third-country party, such as a franchisee, in connection with the extension of credit to any person in Cuba.

(2) Persons subject to U.S. jurisdiction are hereby authorized to process and pay credit card instruments for expenditures in Cuba where such instruments are dated prior to May 15, 1982. The authorization contained in this subparagraph shall expire at the close of business on July 15, 1982.

(e) Persons who travel to Cuba for the purpose of gathering news, making news or documentary films, engaging in professional research, or for similar activities are authorized to acquire and import into the United States, as accompanied baggage or otherwise, such publications, as defined in subparagraph (c)(3) of this section, as are directly related to their professional activities, without limitation as to value. Such merchandise may be acquired and imported only for their own professional use or that of their employers at the time of the travel, and may not be sold to other persons.

(f) Persons who travel in Cuba pursuant to provisions of this section shall not become nationals of Cuba solely because of such travel. This paragraph does not authorize any transaction prohibited by any other section of this part.

(g) This section does not authorize any person subject to the jurisdiction of the United States to make any investment in Cuba, establish any branch or agency in Cuba, or transfer any property to Cuba, except transfers by or on behalf of individual or group travelers, and aircraft or vessels, as expressly authorized in this section.

Dated: April 19, 1982

/s/ Dennis M. O'Connell
DENNIS M. O'CONNELL
Director

Approved: /s/ John M. Walker, Jr.
JOHN M. WALKER, JR.
Assistant Secretary

Filing Date: April 19, 1982

Publication Date: April 20, 1982

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 82-

RUTH WALD,
21 Lakeview Avenue
Cambridge, Massachusetts 02138
(617) 868-7748; ET AL., PLAINTIFFS

—against—

DONALD REGAN,
Secretary of the Treasury,
Department of the Treasury,
Washington, D.C. 20220; ET AL., DEFENDANTS

AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

SANDRA LEVINSON, being duly sworn, deposes and says:

1. I am and have been the Executive Director of the Center for Cuban Studies for the past ten years. The Center for Cuban Studies (hereinafter "the Center") is a not-for-profit corporation, organized under the laws of the State of New York and has, since its inception, had both tax-exempt and tax-deductible status, pursuant to Section 501(c)(3) of the Internal Revenue Code.

2. Throughout its existence, the Center, headquartered in the City of New York, has functioned as a library and resource center open to all persons who are interested in

any aspect of Cuban society. It has also provided specific library and resource services to members of a wide variety of academic and professional disciplines, including economists, sociologists, political scientists, journalists, writers, health personnel and cultural workers.

3. As a continuing part of its regular program, it has arranged for study tours to Cuba of persons in a variety of specialized areas who travel there for specific, discrete research projects as well as for more general study and familiarization with Cuban institutions and Cuban citizens who are their professional counterparts.

4. The Center has arranged for study tours for both professionals and non-professionals alike who are interested in the study of the various aspects of Cuban society. For example, over the past several years, the Center has arranged for tours of people interested in the following areas:

1. Women in Cuba. (Ex. A)
2. The Cuban economy. (Ex. B)
3. Cuban culture.
4. Cuban education, at all levels. (Ex. C)
5. Cuban politics. (Ex. C)
6. The Cuban health system. (Ex. D)
7. Cuban law.

5. Consistent with its programs, in or about January 1982, the Center received several hundred applications from persons in a variety of disciplines, seeking acceptance in an interdisciplinary study tour program scheduled for July 16th to August 16th, 1982. The tour was to have included, as an integral part of its program, study of the Spanish language as it is spoken in Cuba, and professional seminars in several disciplines. Most of the participants are conversant with the Spanish language at some level and for many of the participants accepted in the program, Spanish is a language in which they are fully conversant.

6. Following the promulgation of the amendment to 31 C.F.R. 515.560 on April 19, 1982, and before the effective date of the regulation on May 15, 1982, the Center wrote to each of those participants in the summer program, advising them of the amendment to the regulations and seeking from them specific information relating to their professional intentions in participating in the summer program. A copy of the Center's letter of April 28, 1982 is appended hereto as Exhibit E, and sample copies of responses from the tour participants are annexed hereto as Exhibits F1-F .

7. Thereafter, the Center, by letter dated June 1, 1982, wrote to the Director, Office of Foreign Assets Control, describing in detail both the interdisciplinary nature of the study tour and the names and professional or other affiliations of the participants. A copy of that letter is annexed hereto as Exhibit G.

8. On June 4, 1982, I received a telephone call from Mrs. Marilyn Muensch, Chief of Licensing, Office of Foreign Assets Control, advising that her office had decided that the Center's interdisciplinary study tour did not qualify as "professional research or similar activities" and stating that the tour did not meet the Department's unarticulated standards. See Exhibit G.

9. Both by letter of June 1, 1982, and in the oral colloquy referred to in paragraph 8 *supra*, the Center sought a specific license pursuant to 515.560(3)(b), in the event that Foreign Assets Control did not acknowledge that the interdisciplinary study tour met that office's standards for a general license exception. The application has been denied by Foreign Assets Control. See Exhibit G.

10. The Center has projected study tours in the period September-December, 1982, in the areas of literature, music, film, economics and politics.

11. The actions of the Treasury Department, as generally reflected in the amendment to 515.560, represents an assault on the continued ability of the Center to function as an institution for learning and scholarship. It

makes it impossible for the Center to offer to both the general public and to those interested in specific areas of interest, first-hand access to Cuban experts and to raw materials such as newspapers, magazines, technical journals, and specific periodicals currently available only in Cuba. Should these regulations remain as presently drawn, the United States public will be deprived of information and analysis in areas which are critical to public understanding of Cuban society and thus to the making of public policy in our democratic society.

/s/ Sandra Levinson
SANDRA LEVINSON

Sworn to before me this
14th day of June, 1982.

/s/ Sherry Wertheimer
SHERRY WERTHEIMER
Notary Public, State of New York
No. 03-01 WE 4614743
Qualified in Bronx County
Certificate filed in New York County
Commission Expires March 30, 1983

EXHIBIT A

CENTER FOR CUBAN STUDIES
220 East 23rd Street, New York, N.Y. 10010
(212) 685-9038

WOMEN'S STUDY TOUR TO CUBA

August 16-23, 1981

THEME: The Achievements of Cuban Women and Socialist Legality

Sunday, August 16:

Arrive in Havana via charter from Miami.

Transfer to your hotel for an informational meeting.

Evening free to walk around.

Monday, August 17:

Morning bus tour of modern and colonial Havana.

Afternoon visit to the Federation of Cuban Women's (FMC) activists' training school "Fe del Valle".

Evening informal get-together with Cuban women in private home.

Tuesday, August 18:

Morning meeting with the Union of Cuban Jurists.

Afternoon visit to the Museum of the Revolution.

Evening visit to a "Casa de cultura" to observe classes in dance, theater, art, etc.

Wednesday, August 19:

Morning visits to the Alamar housing district outside of Havana and to a textile factory, where most of the workers are women.

Afternoon visit to a Pioneer Palace, the children's recreation and education center.

Evening free.

Thursday, August 20:

Attend a session of a Popular Tribunal in the morning and talk with judges and lawyers.

After lunch, visit a new rural community.

Evening cultural event—theater, dance or music.

Friday, August 21:

Morning visit to the world-famous Havana Psychiatric Hospital.

Afternoon visit to a training school for day care teachers.

Evening free.

Saturday, August 22:

Morning meeting at the national offices of the FMC.

Afternoon visit to the artisans' market in the Plaza de Catedral.

Evening farewell party in a private home.

Sunday, August 23:

Departure via charter to Miami.

PRICE: $750. Includes airfare (Miami-Havana round trip), visas, transfers, accommodations based on double occupancy, three meals per day, program, and a tour leader from the Center for Cuban Studies, in addition to the Cubatur guide. The hotel is a deluxe hotel (hopefully the Nacional, although we don't yet know for sure).

DEPOSIT DUE DATE: A deposit of $150.00 should be sent to the Center no later than JULY 1st if you want to ensure a place on the tour.

EXHIBIT B

CENTER FOR CUBAN STUDIES
220 East 23rd Street, New York, N.Y. 10010
(212) 685-9038

INTRODUCTION TO CUBA AND ITS SOCIALIST ECONOMY

When Fidel Castro and the 26th of July Movement came to power in Cuba 22 years ago, few outside of Cuba knew what to expect. We in the United States were remarkably ignorant of the lengthy revolutionary history of Cuba, for example, what the Cubans refer to as their "100 years of struggle."

In these 22 years we have remained ignorant, to a considerable degree, of the economic and political process which have made Cuba the only socialist state in the Western Hemisphere. The continuing U.S. economic blockade of Cuba, and the fact that the United States broke diplomatic relations in 1961, are largely responsible for this lack of information.

Today it is more important than ever that we in the United States understand Cuba and its economic system, not in the simplistic anti-communist terms of our mass media, but in some depth, through direct knowledge. Such understanding is crucial, for Cuba may well hold the key to the future of the Caribbean and Latin America.

The Center for Cuban Studies has planned this trip to give participants an introduction to Cuba and an explanation, in as much detail as possible in 15 days, of its socialist economy. You will have the unique opportunity of meeting some of Cuba's most perceptive economic planners in an informal and probing exchange.

Preliminary Program

SUNDAY, DECEMBER 27

Arrive at Jose Marti International Airport and transfer to Hotel Vedado for a cocktail party, informational meeting and dinner. Evening free to explore Havana on your own.

MONDAY, DECEMBER 28

Morning sightseeing of modern and colonial Havana by bus. Afternoon visit to the Literary Museum. Evening visit to "Casa de Cultura" in the municipal area of Revolution Square.

TUESDAY, DECEMBER 29

Morning meeting with Eugenio Rodriguez Balari, head of the Institute of Consumer Demand, and editor in chief of OPINA magazine. After lunch visit the Alamar Housing Community built by the system of microbrigades. Evening visit to a Committee for the Defense of the Revolution (CDR).

WEDNESDAY, DECEMBER 30

Morning visit to Los Naranjos, a citrus farming community; including visits to their day care center and polyclinic and a discussion with the director. Lunch at Rio Cristal. Afternoon discussion of rural community development. Evening optional cultural activity, such as a theater performance by the "Bertolt Brecht Political Theater Group."

THURSDAY, DECEMBER 31

Morning visit to the famed Havana Psychiatric Hospital. Afternoon visit to the Economic Institute. Evening New Year's Eve party.

FRIDAY, JANUARY 1

Depart by plane in the morning for Santiago de Cuba. Afternoon sightseeing. Evening at leisure for individual activities.

SATURDAY, JANUARY 2

Morning visit to the Jose Marti District, sight of new housing and facilities for 40,000 inhabitants. Afternoon visit to Siboney Farm where Fidel Castro and others planned the attack on Moncada, and to the old Moncada Garrison, now a museum and home of the July 26th Elementary School. Evening visit to the Casa de Trova for an evening of Cuban music.

SUNDAY, JANUARY 3

Journey through the beautiful Sierra Cristal mountains to Mayari Arriba. Once a remote village, Mayari has many new features which you will visit, including schools, a polyclinic and the museum of the Second Front. In the afternoon visit the Museum of the Underground, a fascinating documentary of the July 26th Movement in the cities. Evening optional dinner at the Santiago 1900, one of Cuba's best and loveliest restaurants.

MONDAY, JANUARY 4

Morning departure for Camaguey. Afternoon free to see the sights of the city. Evening see a performance of the Ballet de Camaguey, or visit the beautiful Casa de Trova to hear the Nueva Trova singers.

TUESDAY, JANUARY 5

Depart for Santa Clara, a pleasant combination of rural old-fashioned charm and new industry. Visit a tobacco factory and discuss the economics of the workplace with the employees.

WEDNESDAY, JANUARY 6

Depart for Varadero, the most spectacular beach in Cuba. Evening attend the Pirate's Cove nightclub.

THURSDAY, JANUARY 7

Day free at Varadero to enjoy swimming, bicycling, paddle boats or just relax in the sun. Evening visit to a CDR to discuss the economic life of the city.

FRIDAY, JANUARY 8

Morning departure for Havana. Afternoon meeting with members of JUCEPLAN, the agency responsible for economic planning in Cuba.

SATURDAY, JANUARY 9

Morning meeting with Poder Popular, the basic electorate unit in Cuba. Afternoon visit to Lenin Park and the Jose Marti Pioneer Camp for children. Evening farewell visit at a Cuban home.

SUNDAY, JANUARY 10

Morning free. Afternoon transfer to the airport for the return flight to Miami.

.....

COST

$900.00 from Miami, based on double occupancy. Single supplement—$140.00.

FEATURES

- Roundtrip airfare Miami/Havana; one way airfare Havana/Santiago
- Fourteen nights economy class hotel accommodations
- Three meals daily
- All services in program
- Services of an English speaking Cubatur guide and escorted by a Center for Cuban Studies guide
- Baggage handling
- U.S. Departure Tax and all visa fees

Deposit for the tour is $150.00 and should be sent by November 15 to:

Center for Cuban Studies
220 East 23rd Street
New York, NY 10010
(212) 685-9038

.....

Here is my $150.00. Sign me up for the Introduction to Cuba and its Socialist Economy tour.

Name .....

Address .....

.....

Phone .....

WEDNESDAY, NOVEMBER 26

Morning visit to a primary school. Afternoon meeting at the University of Havana and meeting with Ministry of Higher Education officials. Evening visit to "Casa de Cultura" to observe extra-curricular classes in theater, dance, music, etc.

THURSDAY, NOVEMBER 27

Morning visit to Cubanacan, the National Art School, to talk with professors and visit classes. Afternoon visit to teacher training school or school for day care center teachers. In the evening, a Thanksgiving celebration at the Cuban Institute for Friendship with the Peoples (ICAP) with musicians of the "nueva trova."

FRIDAY, NOVEMBER 28

Morning visit to the Havana Psychiatric Hospital. Afternoon visit to the famed Lenin School. Evening optional cultural activity such as attending a theater or dance performance.

SATURDAY, NOVEMBER 29

Morning discussion at the Institute for Internal Demand or a visit to the Alamar Housing Project outside of Havana. Afternoon at Santa Maria Beach and visit to Old Havana's "Plaza de Catedral" for the Saturday arts and crafts fair. Evening cultural activity or farewell party.

SUNDAY, NOVEMBER 30

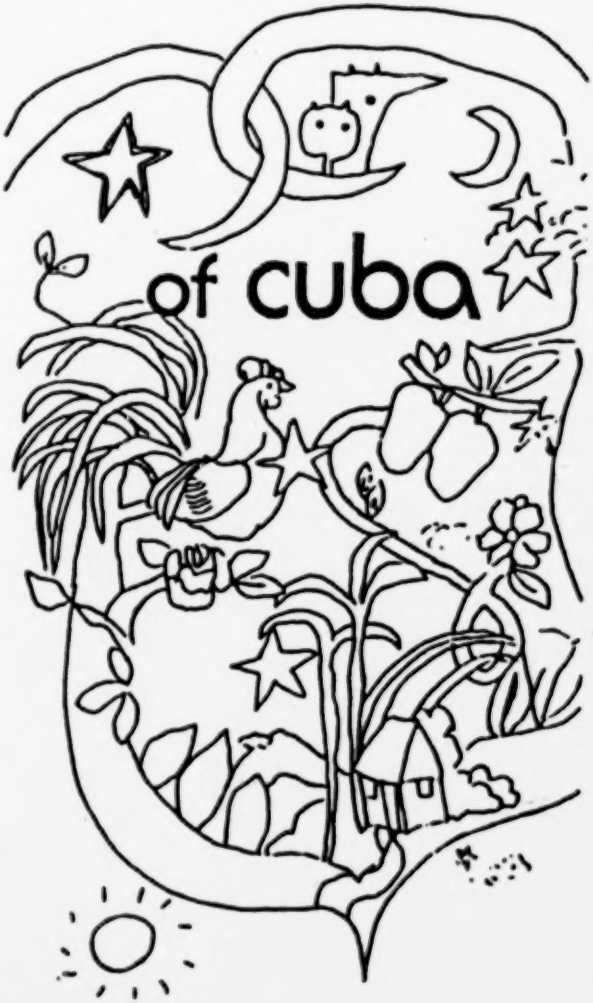
Departure.

EX. C

Center for Cuban Studies

Thanksgiving Tours

TWO TOURS: POLITICS and EDUCATION



Nov. 23-30, 1980

COST

The cost of each trip is $635, from Miami, based on double occupancy. Single supplement is $70. These trips are open only to Center for Cuban Studies members, and a member of the Center staff accompanies each group. If you are not currently a member, the $25 annual membership fee must accompany your $100 trip deposit.

FEATURES

- Round-trip air fare Miami - Havana
- Seven nights economy class hotel accommodations
- Three meals daily
- Services of English-speaking Cubatur guide
- Escorted by Center for Cuban Studies representative
- Baggage handling
- U.S. departure tax
- All visa fees

Deposit for

Deposit for the tour is $100 and should be sent by September 23 to:

Center for Cuban Studies
220 East 23rd Street
New York, New York 10010

for further information (212) 685-9038

Here is my $100 for the Politics or Education tour.
(circle one)
In addition, I enclose $25 for membership
(if applicable)

NAME _____
ADDRESS _____
_____
TELEPHONE _____

Center for Cuban Studies
220 East 23rd St., N.Y.C., N.Y. 10010

POLITICS TOUR

When Fidel Castro and the 26th of July Movement came to power in Cuba nearly 22 years ago, few outside of Cuba knew what to expect. We in the United States were remarkably ignorant of the lengthy revolutionary history of Cuba, for example, what the Cubans refer to as their "100 years of struggle."

In these 22 years, we have remained ignorant, to a considerable degree, of the political process which has made Cuba the only socialist state in the western hemisphere. The continuing U.S. economic blockade of Cuba and the fact that the U.S. broke diplomatic relations in 1961, are largely responsible for this lack of information.

Today, it is more important than ever that we in the United States understand Cuba and its political system, not in the simplistic anti-communist terms of our mass media, but in some depth, through direct knowledge. Such understanding is crucial, for Cuba may well hold the key to the future of the Caribbean, Central and Latin America.

The Center for Cuban Studies has planned this trip for its members in order to explain, in as much detail as possible in eight days, the workings of Cuba's domestic political system and its foreign policy. You will have the unique opportunity of meeting some of Cuba's most perceptive political people in an informal and probing exchange.

To insure maximum benefit for individual participants, the trips are limited in number. Therefore, you should indicate your interest as soon as possible. When you send in your deposit of $100 (plus $25 if you are not already a Center member), you will receive a copy of *The Complete Travel Guide to Cuba*, the *Cuban Constitution*, the *Family Code*, and other readings.

EDUCATION TOUR

SUNDAY, NOVEMBER 23
Arrive Havana late afternoon, meet with guides to discuss program. Evening, optional visit to Morro Castle Tavern.

MONDAY, NOVEMBER 24
Morning political/historical sightseeing tour of modern and colonial Havana, led by local historian. After lunch, political overview with Manuel Lee, head of the U.S. department of ICAP (the Cuban Institute for Friendship with People), then a visit to the Museum of the Revolution. Evening get-together in a private home with people who work in politics.

TUESDAY, NOVEMBER 25
Morning meeting at JUVENTUD REBELDE with editors and reporters of this Cuban afternoon daily newspaper. After lunch meet with representatives of "poder popular" (People's Power"). In the evening, attend a local CDR (Committee for Defense of the Revolution) meeting.

WEDNESDAY, NOVEMBER 26
Morning meeting with Eugenio Rodriguez Balari, head of the Institute for Internal Demand, and editor in chief of OPINA magazine. Afternoon meeting with Communist Party officials to discuss role of the Party. Evening visit to "Casa de Cultura" in the municipal area of Revolution Square.

THURSDAY, NOVEMBER 27
Morning visit to the Lenin School to talk with students about their political education. After lunch, a visit to Literacy Museum. In the evening, a Thanksgiving celebration at the ICAP house with musicians of the "nueva trova."

FRIDAY, NOVEMBER 28
Morning meeting with the Ministry of Foreign Relations to discuss Cuban foreign policy. After lunch, meet with representatives of the Federation of Cuban Women. In the evening, optional cultural activity, such as a theater performance by the "Bertolt Brecht Political Theater Group."

SATURDAY, NOVEMBER 29
Morning meeting with heads of departments of ICAP. Afternoon free, which could include a late afternoon/early evening visit to Old Havana's Cathedral Square for the Saturday arts and crafts fair. Evening farewell party or cultural event.

SUNDAY, NOVEMBER 30
Departure.

Cuba's educational system, which has received international recognition for everything from its 1961 literacy campaign to its work-study program and secondary schools in the countryside, cannot be understood in eight days. However, North American teachers face a peculiar dilemma: the Cuban school system runs more or less on the same calendar as our own. When U.S. educators are on vacation, and thus free to visit Cuba, Cuban schools are closed too.

The Center has therefore planned these eight days of Thanksgiving week very carefully; We have tried to put as much learning about Cuban schools as possible in such a short time, knowing that many teachers are taking valuable time from classrooms in order to better understand Cuban education.

We think that the following itinerary will give the average U.S. educator a good introductory overview to the Cuban system, the kind of introduction that will excite further interest and study. You will meet some of Cuba's finest educators in a relaxed and informal exchange, and visit schools of all types and all levels.

SUNDAY, NOVEMBER 23
Arrive Havana late afternoon; meet with guides to discuss program. Evening visit to Morro Castle Tavern.

MONDAY, NOVEMBER 24
Meeting with Ministry of Education officials in the morning and tour of the city. Afternoon visit to the Literacy Museum which houses teaching and study materials, statistics, etc. of the 1961 literacy campaign. Evening get-together with students and teachers in a private home.

TUESDAY, NOVEMBER 25
Morning visit to a secondary school in the countryside to observe work-study program. After lunch, visit to a Pioneer Camp. In the evening, meet with local CDR (Committee for Defense of the Revolution) to discuss neighborhood educational programs.

*Optional: visit the classrooms of the "nocturnal obrero campesino" where workers study after 5 p.m.

SUNDAY, DECEMBER 21:
See October 26.

MONDAY, DECEMBER 22:
See October 27.

TUESDAY, DECEMBER 23:
See October 28.

WEDNESDAY, DECEMBER 24:
See October 29.

THURSDAY, DECEMBER 25:
Early morning departure to SANTIAGO and tour of the city on arrival. Afternoon visit to a maternity hospital. Evening "Christmas" Party.

FRIDAY, DECEMBER 26:
See October 31.

SATURDAY, DECEMBER 27:
See November 1.

SUNDAY, DECEMBER 28:
See November 2.

MONDAY, DECEMBER 29:
See November 3.

TUESDAY, DECEMBER 30:
See November 4.

WEDNESDAY, DECEMBER 31:
Morning visit to the Camaguey School of Public Health or an old people's home, a day care center or the Pioneer Palace. In the afternoon, leave for SANTA CLARA, and check into Los Caneyes Hotel. Evening New Year's Eve Party.*

THURSDAY, JANUARY 1:
See November 6.

FRIDAY, JANUARY 2:
See November 7.

SATURDAY, JANUARY 3:
See November 8.

SUNDAY, JANUARY 4:
Departure.

*It is possible that because of New Year's activities, December 31 and January 1 will be spent at Varadero Beach.

Center for Cuban Studies

Health Care Tour of cuba

OCTOBER 26–NOVEMBER 9, 198

DECEMBER 21–JANUARY 4, 198

DEPOSIT FOR THE TOURS IS $100 AND SHOULD BE SENT BY SEPTEMBER 15 FOR THE OCTOBER TOUR, AND BY OCTOBER 21 FOR THE DECEMBER TOUR TO:

Center for Cuban Studies
220 East 23rd Street
New York, N.Y. 10010
(for further information: 212-685-9038)

Here is my $100 deposit for the Health Care Tour for (circle one) October December

plus $25 Center membership fee (if you are not already a member

Name_____

Address_____

_____

Telephone_____

When we receive your reservation form and deposit, we will send you a copy of THE COMPLETE TRAVEL GUIDE TO CUBA, and a number of readings on health care in Cuba.

HEALTH WORKERS TOUR

Health statistics are a matter of life and death. Cuba's health statistics give impressive evidence that the international recognition given Cuba's health system is well-deserved. For instance, Cuba has lowered its infant mortality rate to 19.3 per 1000 live births. Venezuela's is 43.7, Peru's 94.3, Haiti's 150.

The Center for Cuban Studies is sponsoring the two following tours for those interested in the fields of public health and medicine. The tours are intended as introductions to Cuba's health system. You'll have an opportunity to meet at length with nurses, doctors, Ministry of Public Health officials, patients, hospital administrators, and Cubans in several other fields as well.

COST

The cost of this 15-day trip is $929.00 from Miami, based on double occupancy. Single supplement $140.00.

FEATURES

- *Round-trip air fare Miami-Havana*
- *Fourteen nights economy class hotel accommodations*
- *Three meals daily*
- *One way air fare Havana - Santiago de Cuba*
- *All other transportation in Cuba*
- *Services of English speaking Cuban tour guide*
- *Center for Cuban Studies escort*
- *Baggage handling*
- *U.S. departure tax*
- *All visa fees*

PROGRAM

SUNDAY, OCTOBER 26
Arrive HAVANA late afternoon, meet with guides. Evening free.

MONDAY, OCTOBER 27
Morning tour of old and new Havana. Afternoon meeting with the Ministry of Public Health (MINSAP) for overview of Cuban health system. Evening meet informally in private home with Cuban health workers.

TUESDAY, OCTOBER 28
Morning visit to Psychiatric Hospital. Afternoon tour of the Literacy Museum and/or projection of films about health care at the Cuban Film Institute (ICAIC). Evening visit to Morro Castle Club for drinks and entertainment.

WEDNESDAY, OCTOBER 29
Morning visit to a community polyclinic. Afternoon visit to orthopedic hospital Frank Pais. Evening optional cultural or sports event.

THURSDAY, OCTOBER 30
Early morning departure to SANTIAGO and tour of the city on arrival. Afternoon visit to a maternity hospital. Evening free.

FRIDAY, OCTOBER 31
Morning excursion to Mayari Arriba in the SECOND FRONT, one hour into the mountains outside Santiago. Visit to and meeting at the polyclinic there and also at the maternity house. Lunch at El Sombrero restaurant in the mountains. Afternoon visit to the Psychiatric Hospital in El Cobre, meeting with the director, Alberto Orlandini. Evening at the Casa de la Trova, to hear the traditional troubadour songs.

SATURDAY, NOVEMBER 1
Visit Fort Moncada and the Museo de Clandestinidad (Museum of the Underground) in the morning. Afternoon free to explore Santiago. Evening cultural event.

SUNDAY, NOVEMBER 2
Depart by bus from Santiago to HOLGUIN. Spend day at the beach at GUARDALAVACA. Evening free.

MONDAY, NOVEMBER 3
Visit the hospital facilities at the large sugar central between Guardalavaca and Holguin in the morning. Lunch at MAYABE. In the afternoon visit the Lenin Hospital in HOLGUIN. Evening free.

TUESDAY, NOVEMBER 4
Depart for CAMAGUEY, and have lunch there. Tour Camaguey in the afternoon and visit a factory. In the evening, visit Casa de la Trova for another kind of troubador singing.

WEDNESDAY, NOVEMBER 5
Morning visit to the Camaguey School of Public Health or an old people's home, a day care center or the Pioneer Palace. In the afternoon, leave for SANTA CLARA, and check into Los Caneyes Hotel. Evening free.

THURSDAY, NOVEMBER 6
Morning visit to La YaYa community to talk with community leaders about health issues and programs. In the afternoon, leave for HAVANA. Evening free or cultural event.

FRIDAY, NOVEMBER 7
Morning meeting with MINSAP about health education. Afternoon visit to the Lenin School or to the new communities of Jibacoa or Los Naranjos. Evening cultural event.

SATURDAY, NOVEMBER 8
Morning meeting with Cuban health personnel and the Federation of Cuban Women about sex education. Afternoon free or at the beach at Santa Maria. Evening cultural event.

SUNDAY, NOVEMBER 9
Departure.

EXHIBIT E

CENTER FOR CUBAN STUDIES
220 East 23rd Street, New York, N.Y. 10010
(212) 685-9038

April 28, 1982

Dear Study Tour Member,

We assume you have heard about recent Treasury Department regulations which ban ordinary tourist and business travel to Cuba as of May 15. The regulations permit by general license official travel, visits to close relatives, and travel connected with research, newsgathering or similar activities.

So that we may comply with the regulations, we are currently examining them in detail along with our attorneys.

We will be in touch with you again within the next 15 days to let you know the status of the situation, and we hope you will bear with us until then.

We greatly appreciate your interest in this trip, and especially we appreciate your patience and good will.

Very sincerely,

/s/ Sandra Levinson
SANDRA LEVINSON
Director

Center for Cuban Studies

Dear Study Tour Member,

As you will recall, our summer study tour of Cuba includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

___Political Science

___Economics

___Medicine and Health Care

___Education

___Culture

___Other (Be as specific as possible)

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

___Political Science, in following specialty _____

___Economics, in following specialty _____

___Health, in following specialty _____

___Education, in following specialty _____

___Culture, in following specialty _____

___Other

Please list your publications or works in progress in this specialty.

_____

_____

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba

220 East 23rd Street, New York, N.Y. 10010 (212) 685-9038

Center for Cuban Studies

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I would like to attend research seminars in the following general areas:

___Political Science

___Economics

✓ Medicine and Health Care

___Education

___Culture

___Other (Be as specific as possible)

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

___Political Science, in following specialty _____

___Economics, in following specialty _____

___Health, in following specialty _____

___Education, in following specialty _____

___Culture, in following specialty _____

___Other

Please list your publications or works in progress in this specialty.

_____

_____

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba.

EX. F-1

220 East 23rd Street, New York, N.Y. 10010 (212) 685-9035

Center for Cuban Studies

Dear Study Tour Member,

As you will recall, our summer study tour of Cuba includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

✓ Political Science

✓ Economics

___ Medicine and Health Care

✓ Education

___ Culture

✓ Other (Be as specific as possible) Housing

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

___ Political Science, in following specialty _____

___ Economics, in following specialty _____

___ Health, in following specialty _____

___ Education, in following specialty _____

___ Culture, in following specialty _____

___ Other

Please list your publications or works in progress in this specialty.

_____

_____

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba.

Jane Wood

T.X.F.

220 East 23rd Street, New York, N.Y. 10010 (212) 685-9038

Center for Cuban Studies

Dear Study Tour Member,

As you will recall, our summer study tour of Cuba includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

✓ Political Science

___ Economics

___ Medicine and Health Care

___ Education

___ Culture

✓ Other (Be as specific as possible)

Rehabil. Latyon & / Special Ed for Developmentally & Physically Handicapped Children

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

___ Political Science, in following specialty _____

___ Economics, in following specialty See above

___ Health, in following specialty

___ Education, in following specialty

Field work done in Cuba on Comparative Analysis of US + Cuban State Policy & Implementation

___ Culture, in following specialty _____

___ Other

Please list your publications or works in progress in this specialty.

See Attached

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba.

EK. F.3

200 East 33rd Street, New York, N.Y. 10010 (212) 555-8026

Publications and Films

1981	Published Proceedings, 8th International Congress of Occupational Therapists, Hamburg Germany. "Occupational Treatment Patterns within Different Cultural Structures"
1978	The American Journal of Occupational Therapy, "There Had to be a Better Way", Vol. 32, No. 3
1978	Published Proceedings, World Federation of Occupational Therapists, Seventh International Congress, Jerusalem, Israel, "An Interdisciplinary Research, Development and Testing Enterprise"
1976	Published Proceedings, Conference on Systems and Devices for the Disabled, The Biomedical Engineering Center and the Rehabilitation Institute of Tufts New England Center "Bridging the Humanistic-Mechanistic Gap: Creative Technological Aids"
1975	The American Journal of Occupational Therapy, "Creative Technological Aids for the Learning Disabled Child: An Interdisciplinary Project", Vol. 29, No. 2
1972	Film, "The Many Sides of David" (38 minutes, 16mm), documentary of interdisciplinary diagnostic of learning disabilities.
1973	The American Journal of Occupational Therapy, "Programmed Instruction versus Therapist Instruction", Vol. 26, No. 2
Spring 1971	M.O.T.A. Quarterly, "Kennedy Evaluation Procedure" and "I.B.M. Executory Program"

MARY C DRISCOLL
17 FAIRMONT AVE
Cambridge MASS
02139

Center for Cuban Studies

Name: Philip Brenner

Dear Study Tour Member,

As you will recall, our summer study tour of Cuba includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

___Political Science

___Economics

___Medicine and Health Care

✓Education

___Culture

✓Other (Be as specific as possible) Foreign Policy

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

✓Political Science, in following specialty U.S. Congress, U.S. Foreign Policy in Latin America

___Economics, in following specialty _____

___Health, in following specialty _____

___Education, in following specialty _____

___Culture, in following specialty _____

___Other

Please list your publications or works in progress in this specialty.

Limits and Possibilities: Studies on the Congress (St. Martin's Press, 1982) - includes chapter on U.S.-Cuban relations

~~Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba.~~

In progress: Congress and Presidency: Studies on American National Government

EX. F:4

220 East 23rd Street, New York, N.Y. 10010 (212) 685-9036

Center for Cuban Studies

Dear Study Tour Member,

As you will recall, our summer study tour of Cuba includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

X Political Science
X Economics → Political Economy (Marxist)

___Medicine and Health Care

___Education

___Culture

___Other (Be as specific as possible)

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

___Political Science, in following specialty _____

X Economics, in following specialty Emergent Economies as Colonial Phenomena the relationship between Capitalist Ideology and the teaching of economics in the U.S.

___Health, in following specialty _____

___Education, in following specialty _____

___Culture, in following specialty _____

X Other I would be glad to do one slide show each on Nicaragua and Grenada.

Please list your publications or works in progress in this specialty.

"Comentario a la Introducción de 'La Sutil Ideología del Capitalismo'", por David L. Schweickart, en Textual, Revista de Humanidades y Ciencias Sociales de La Universidad Autónoma Chapingo, México, abril-junio, 1982, pp.

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba.

Slide projector and tape player (cassette).

EX. F.5

David L. Schweickart
5/3/82

220 East 23rd Street, New York, N.Y. 10010 (212) 685-3038

Center for Cuban Studies

Dear Study Tour Member,

As you will recall, our summer study tour of Cuba includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

___Political Science

✓Economics

✓Medicine and Health Care

___Education

✓Culture

✓Other (Be as specific as possible) Development of agriculture

If possible I would like to meet with anthropologists and other social scientists working on third World socio-economic development.

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

___Political Science, in following specialty _____

___Economics, in following specialty _____

___Health, in following specialty _____

___Education, in following specialty _____

___Culture, in following specialty _____

✓Other Migratory agricultural labor from Mexico to the U.S. and the effects on the Mexican economy

Please list your publications or works in progress in this specialty

"Causes and effects of agricultural labor migration from Mexico to the United States of Bracero to California"

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba

35 mm. slide projector.

EX. F.6

220 East 23rd Street, New York, N.Y. 10010 (212) 685-0035

Center for Cuban Studies

Dear Study Tour Member, Peter RANIS

As you will recall, our summer study tour of Cuba includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

- ✓ Political Science*
- ✓ Economics
- ___ Medicine and Health Care
- ___ Education
- ✓ Culture
- ✓ Other (Be as specific as possible) Labor*; Cuban Foreign Policy in L.A.

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

- ✓ Political Science, in following specialty Puerto Rican Politics
- ___ Economics, in following specialty _____
- ___ Health, in following specialty _____
- ___ Education, in following specialty _____
- ___ Culture, in following specialty _____
- ___ Other

Please list your publications or works in progress in this specialty.

✓ Puerto Rico: Seven Decades of Americanization" Fall, 1980 Latin American Research Review (Review article)

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba.

EX. F-7

Center for Cuban Studies

Dear Study Tour Member,

As you will recall, our summer study tour of Cuba includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

XX Political Science

XX Economics

___Medicine and Health Care

___Education

XX Culture

___Other (Be as specific as possible)

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

___Political Science, in following specialty _____

___Economics, in following specialty _____

___Health, in following specialty _____

___Education, in following specialty _____

XX Culture, in following specialty 20th century cultural nationalism in Latin America

XX Other Afrocubans in the 1920s

Please list your publications or works in progress in this specialty.

Ph.D. dissertation, "The Displaced and the Disappointed: Black Activists and Cultural Nationalists in Cuba in the 1920s."

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba.

Rosalie Schwartz
Department of History
San Diego State University
San Diego, Ca 92182 (714) 265-4254
or 4161 Olympic St
San Diego, CA 92115 (714) 582-4462

EX. F-g

Center for Cuban Studies

Dear Study Tour Member,

As you will recall, our summer study tour of ... includes seminars and discussions of aspects of Cuban society. We are writing now to better determine your specific interests and areas of expertise. Therefore, would you kindly fill in the blank below and return it to us as soon as possible.

I would like to attend research seminars in the following general areas:

____Political Science

__X__Economics

____Medicine and Health Care

____Education

__X__Culture

____Other (Be as specific as possible) History of Cuba - my own specialty is economic history, late 19th, early 20th centuries

I would be willing to give a seminar in the following specific study areas: (Your work need not be Cuba related.)

____Political Science, in following specialty _____

____Economics, in following specialty _____

____Health, in following specialty _____

____Education, in following specialty _____

____Culture, in following specialty _____

____Other History - In April I gave a paper at the Conference of Caribbean Historians, in San Juan, on "Early U.S. investment in Puerto Rican sugar." That might be relevant for a seminar. I am also beginning a parallel research project in U.S. archives on ... in Cuba, c. 1900.

Please list your publications or works in progress in this specialty.

Please advise what, if any, special equipment or materials would be needed for your seminar (slide projector, etc.) if this equipment must be provided in Cuba.

None - but I could bring along copies of my paper.

EX. F-9

Muriel Nelson Weisman
[illegible] South Main St.
Concord, N.H., 03301

I'm a professor of History at Fitchburg State College, Fitchburg, Mass. My doctoral dissertation at Boston University dealt in part with trade between Boston and Cuba before the U.S. Civil War.

EXHIBIT G

CENTER FOR CUBAN STUDIES
220 East 23rd Street, New York, N.Y. 10010
(212) 685-9038

June 1, 1982

Dennis M. O'Connell
Foreign Assets Control Office
1331 G Street N.W.
Washington, D.C. 20220

Dear Mr. O'Connell:

The Center for Cuban Studies has scheduled a summer interdisciplinary study tour to Cuba, to extend from July 16 to August 15. The tour is intended for professionals—academics, writers and journalists, legal and health personnel, and others—for whom the Spanish language and an in-depth knowledge of Cuba is important, even necessary, to their work.

The program is organized to teach both Cuban Spanish and various aspects of Cuban culture, society, history, economics and politics to those enrolled in the summer course. The participants will live and study together for one month in Havana. Morning classes will be given in Spanish at three levels—beginning, intermediate and advanced—with an emphasis on Cuban literature in the advanced classes. These classes will be given five days during the week, i.e., the weekdays. Afternoon seminars will be given in the area of specialization of each tour participant, together with field trips. For this purpose, the people who are part of this interdisciplinary study tour are being divided into seven areas of specialization. They are:

1. Cuban Culture—film, music, dance, art, literature

2. Cuban Education—day care and primary schools, secondary schools, university education, worker-peasant schools, and special education for handicapped and disabled
3. Cuban Science, Medicine, Health Care—physical and mental health care, preventive programs, environmental concerns, scientific ad research advances
4. Cuban Economics and Politics—organization of the Cuban economy, political structure (both Party and administrative), mass organizations
5. Cuban Social Relations—women, race, housing, the elderly, the family
6. Cuban Law—all aspects of the criminal justice system, including the courts, the Constitution, prisons, delinquency
7. Cuban History and Foreign Policy for Latin Americanists

These afternoon seminars will be given by experts in the different fields and visits will be made to relevant institutions. For example, in the cultural field, seminars will be given by writers Roberto Fernández Retamar and Cintio Vitier, filmmakers Tomas Gutiérrez Alea and Santiago Alvarez, composers Leo Brouwer and Harold Gramatges, artists Raúl Martinez and Mariano Rodriguez, art critic Adelaida de Juan, actor-directors Mario Balmaseda and Raquel Revuelta. Field trips will be made to Cubanacan, the art school in Havana; the Cuban National Ballet, both in rehearsal and in performance; the Cuban Film Institute to see films and talk with directors and actors; the theater companies, again both in rehearsal and in performance, and to the Cuban Writers and Artists Union.

The Center received over 300 applications for this study tour and we have specifically selected those persons whom

this tour and these classes would help in their work. We excluded those who seemed to be applying only as "tourists," because the Center is intended to aid persons in their desire to deepen their knowledge and understanding of Cuba, and not to serve as a travel agent for tourists.

I have attached a list of those persons selected for the study tour and the subject area in which each will take seminars and will, in many instances, offer seminars. We have asked each participant to give at least one seminar in his or her area of specialization, as a way of sharing knowledge with Cubans in the same fields. Unless otherwise noted, all those connected with a university are either professors or are completing postgraduate studies.

While we believe that this study tour falls within the limits defined for a general license in Section 515.560(ii) of the Cuban Assets Control Regulations, i.e., "persons who are traveling for the purpose of gathering news, making news or documentary films, engaging in professional research, or for similar activities," should the Office of Foreign Assets Control consider that this Center study tour does *not* fall under the General License requirements, I would like you to consider this letter a request for a Specific License.

Because of the time element, we are most concerned to obtain a ruling from you as quickly as possible. When I spoke with Mr. Boudreau, he assured me that our application would be dealt with as expeditiously as possible. I look forward to hearing from you soon, and will call to make an appointment to discuss the tour with you.

Thank you very much.

/s/ Sandra Levinson
SANDRA LEVINSON
Executive Director

Enclosure: List of Tour Participants

cc: To each tour participant
Michael Standard, Esq.

LIST OF PARTICIPANTS ACCORDING TO MAJOR SUBJECT AREA

I. CUBAN CULTURE

1. Robert Achs, filmmaker, New York City
2. Eugene Adams, media specialist
3. Basha Alperin, musician, New York City
4. Suzanne Avellano, Dept. of Art History, Univ. of Calif./Santa Barbara
5. Ronald Balistrieri, Dept. of Comparative Literature, UC/Riverside
6. Susan Fanshel, filmmaker, New York City
7. Dr. Bruce Franklin, Dept. of English, Rutgers Univ., New Jersey
8. Lisa Frigand, grantmaking in the arts field, New York City
9. Roger Larson, filmmaker, New York City
10. Barbara Leckie, graphic designer, Washington, D.C.
11. Jacqueline Leopold, film producer, New York City
12. Dr. Jack Mitchell, Dept. of English, San Bernardino Valley College, San Bernardino, Calif.
13. Dr. Patty Lee Parmalee, writer, New York City
14. Judith Sobel, film editor, New York City

II. CUBAN EDUCATION

1. Paul Baizerman, teacher, P.S. 309K, New York City
2. Beverly Bickel, teacher-counselor for high school dropouts, La Alianza Hispana, Boston, Mass.

3. Jan Calloway, teacher of English as a second language, New York City Public High School
4. Miriam Carter, instruction assistant for learning disabled children, Roxbury Community College, Roxbury, Mass.
5. Jennifer Charnovsky, bilingual kindergarten teacher, Los Angeles Unified School District
6. Kimberly Gerould, teacher of English as a second language, Somerville, Mass.
7. Susan R. Greenberg, bilingual education counselor, instructor to disabled children, Charles River Academy, Cambridge, Mass.
8. Dr. Cecilia Pollack, director, Intersensory Learning Center, Great Neck, N.Y.
9. Janice Rank, instructor in reading, English, psychology, San Bernardino, Calif.
10. Stephen Shapiro, Principal and social studies teacher, Satellite Academy High School, New York City
11. Eddison Skerrit, teacher, New York City public schools
12. Cheryl Sonnichsen, Dept. of International Development Education, Stanford University, Stanford, Calif.
13. Brad Stocker, teacher of English as a second language, Miami-Dade Community College, Florida
14. David Tanzer, Dept. of Mathematics, Univ. of Penna. (student)
15. Cynthia Terrell, Germantown Friends School (student, daughter of Huntington Terrell)

16. David K. Truscello, teacher of English, as a second language, Roxbury Community College, Roxbury, Mass.
17. Claudia Zaslavsky, mathematician, author, Teachers College consultant, New York City
18. Sam Zaslavsky, professor at Baruch College, New York City (ret.)
19. Clarence E. Wilkins, Upper School, Abington Friends School, Jenkintown, PA

III. CUBAN SCIENCE, MEDICINE, HEALTH CARE

1. Michael Carter, senior programmer, Univ. of Calif./Davis, Dept. of Agronomy and Range Science
2. Mary Driscoll, Director, Occupational Therapy Dept., Kennedy Memorial Hospital for Children, Boston, MA
3. Patricia Ferrand, County Solid Waste Coordinator, New Jersey
4. Dr. John Gliedman, Dept. of Psychology and Philosophy of Science, Empire State College, New York City
5. Deborah Howland, R.N., Boston City Hospital
6. Brenda Loew, Director of Community Energy Planning, Amherst, MA
7. Judith-Powell, R.N., New York Infirmary, Downtown Beekman Hospital, New York City
8. Dr. Charles Roberts, psychiatrist, private practice, New Jersey
9. Dr. Charles Rosenbloom, psychiatrist, Morningside Clinic and private practice, New York City
10. Dr. Charles Wright, obstetrician, private practice, Detroit, MI

11. Mrs. Charles Wright
12. Lindsay Gillies, Data Base Administrator, Univ. of Mass./Amherst

IV. CUBAN ECONOMICS AND POLITICS

1. Dr. Philip Brenner, Dept. of Political Science, American University, Washington, D.C.
2. Dr. Michael Kearney, Dept. of Anthropology, teacher of Third World socio-economic development, UC/Riverside
3. Rosemary Potter, Dept. of Political Science, University of Wisconsin/Milwaukee
4. Kathleen Pritchard, Dept. of Political Science, Univ. of Wis./Mi.
5. Carlotta Renwick, accountant, C.E.S. Publishing Corp., New York
6. Dr. David Schwartz, Dept. of Economics, Albright College, Albright, PA
7. Dr. Thomas A. Sears, Dept. of Economics, Univ. of San Francisco
8. Dr. Huntington Terrell, Dept. of Philosophy, Colgate University, Hamilton, New York
9. Millie Thayer, teacher of social studies, Grant High School, Portland, Oregon
10. Penny Rubinfine, Center for Cuban Studies, New York City

V. CUBAN SOCIAL RELATIONS

1. Arthur Bassin, architect and urban planner, University of California/Santa Barbara
2. Gilbert Cadena, Dept. of Sociology, Univ. of Calif./Riverside

3. Lucille Flato, City of San Francisco Social Services Department
4. James Flory, Dept. of Sociology, Inver Hills Community College, St. Paul, MN
5. Jennifer Green, Dept. of Anthropology, Stanford Univ., CA
6. Michael Hirsch, Dept. of Sociology, Univ. of Wisconsin/Milwaukee
7. Monika Lynne Hudson, public administrator, Sacramento, CA
8. Carole Nagengast, Dept. of Anthropology, UC/Riverside
9. Arline Prigoff, Jane Addams College of Social Work, Chicago, and Coordinator, West Side Chicago Parental Stress Services
10. Laurie Puretz, UC/Santa Cruz (student)
11. Ernestine S. Roye, social worker, Spence-Chapin Services to Families and Children, New York City
12. Dr. James Otis Smith, Dept. of Sociology, Univ. of Wis./Milwaukee
13. Jane Wood, housing and tenants organizer, New York City
14. Dwayne Wyatt, UCLA Graduate School of Architecture and Urban Planning

VI. CUBAN LAW

1. Emily Bass, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, New York City
2. Haywood Burns, Esq., Director, Urban and Legal Studies, City College of New York

3. Maggie Cohn, National Jury Project Staff, Boston
4. Ethel Devine, court reporter, Brooklyn, N.Y.
5. Peter Joy, Esq., Clinical Legal Education Program, Case Western Reserve University School of Law, Cleveland
6. Emilie Nora Junge, Esq., U.S. Dept. of Labor
7. The Rev. David Patton, juvenile delinquency prevention program and social justice programs, California
8. Scott D. Pollack, legal assistant, New York City
9. Margarita Rosa, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, New York City

VII. CUBAN HISTORY AND FOREIGN POLICY FOR LATIN AMERICANISTS

1. June Belkin, Center for Latin American Studies, Univ. of Pittsburgh
2. William Bigelow, Social Studies, Jefferson High School, Portland, Oregon
3. Shirley Braus, Latin American Studies, California State Univ., Los Angeles
4. Dr. Betty Broadhurst, Latin American Studies, Colorado State University
5. Edward P. Casey, Latin American History, Leeward Community College, Pearl City, Hawaii
6. Audrey Cole, administrative assistant, Senator Lowell Weicker
7. Jackie Dooley, Bibliographer/Editorial Assistant, Hispanic American Periodical Index, Latin American Center, UCLA

8. Jane Franklin, Center for Cuban Studies/*Cuba in Focus*, NYC
9. Naomi Friedman, Center for Cuban Studies, New York City
10. Dr. William Gaboury, Dept. of History, Southern Oregon State College, Ashland, Oregon
11. Susan L. Gregory, *Latin American Perspectives*, UC/Riverside
12. Dr. Muriel McAvoy-Weissman, Latin American History, Fitchburg State College, Mass.
13. Dr. Peter Ranis, Dept. of Political Science and History, York College, CUNY, New York City
14. Dr. Margarita Samad-Matias, Director, Latin American Studies Program, City College, New York City
15. Dr. Rosalie Schwartz, Latin American History, San Diego State University

The following participants are journalists, but each of them would also fit into the category assigned for those in the cultural field:

1. Margot Adler, National Public Radio/Neiman Fellow (Harvard)
2. Barbara Leon, writer-reporter
3. Norma Smith, radio producer, Pacifica Radio, Calif.
4. Martha W. Tabor, writer-photographer, Washington, D.C.
5. Robert Weil

OFFICE OF THE SECRETARY OF THE TREASURY
Washington, D.C. 20220

[SEAL]

FAC NO. 96248

Jun 11, 1982

Dear Ms. Levinson:

This is in response to your letter of June 1, 1982, concerning the Center for Cuban Studies' proposed interdisciplinary study tour in Cuba from July 16-August 15, 1982.

As you are aware, this Office administers the Cuban Assets Control Regulations, which prohibit all unlicensed economic transactions in which Cuba has an interest. Section 515.560 of the Regulations sets forth a licensing policy which authorizes certain transactions on behalf of certain persons who wish to travel to Cuba. Persons subject to U.S. jurisdiction who are traveling to visit close relatives in Cuba, to engage in professional research in Cuba, for purposes of certain news-related or film-making activities in Cuba, or to engage in official business may visit Cuba without obtaining a specific Treasury license. All other persons who wish to travel to Cuba must obtain a specific Treasury license in advance. Under current licensing policy, only those persons with compelling humanitarian reasons or who are to participate in public performances or exhibitions may receive a specific Treasury license.

We have considered the proposed study tour of the Center for Cuban Studies under both the general and the specific license authorizations. General interest study tours, even when the prospective participants are professionals in various fields, do not constitute "engaging in professional research" or "gathering news, making news or documentary films" under section 515.560. Moreover, although prospective participants may regard the tour as educational and informative, such generalized benefits are

not sufficient to bring the trip within the specific licensing authority for exceptions based on humanitarian grounds. Finally, we have received no information suggesting that the second category for which specific licenses may be granted, that pertaining to public performances and public exhibitions, is involved here.

Based upon information presented in your June 1 letter, it is the determination of this Office that the proposed interdisciplinary study tour does not fall within any of the general license categories. It is also our determination that issuance of a specific license would not be appropriate in this case. Approval of travel-related transactions involving travel for such general purposes would be inconsistent with section 515.560's purpose of limiting Cuba's foreign exchange earnings.

As you were informed by Marilyn L. Muench, Chief of Licensing, in her conversation with you June 4, it is possible that certain of the prospective tour participants individually are eligible to engage in travel-related transactions under the general license or a specific license. We would be pleased to consider any additional information which may be presented to this Office pertaining to such individuals.

I regret any inconvenience this new control may cause and trust this information will be helpful to you.

Very truly yours,

/s/ Dennis M. O'Connell
DENNIS M. O'CONNELL
Director
Office of Foreign Assets Control

Ms. Sandra Levinson
Center for Cuban Studies
220 East 23rd St.
New York, New York 10010

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No.

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

AFFIDAVIT IN SUPPORT OF MOTION FOR A PRELIMINARY INJUNCTION

COMMONWEALTH OF MASSACHUSETTS)

COUNTY OF MIDDLESEX)

RUTH WALD, being duly sworn, deposes and says:

1. I am a citizen of the United States and reside at 21 Lakeview Avenue, Cambridge, Massachusetts. I am a Professor of Biology at the Biological Laboratories of Harvard University.

2. I wish to visit Cuba for approximately ten (10) days commencing on or about August 15, 1982. My trip to Cuba cannot be delayed beyond this date since my duties at Harvard University require my presence in Cambridge beginning in early September. Thus, I if I am unable to visit Cuba in August, I will not be able to make the trip for the foreseeable future.

3. The purpose of my intended visit to Cuba is to meet and make contact with Cuban women, to renew friendships with Cuban women whom I met on my previous trip, and to explore how women in Cuba are resolving problems which confront working women everywhere.

4. I am not going to Cuba to gather news, engage in professional research, to visit relatives, to give public performances or for humanitarian purposes.

5. It is my understanding that, given the purposes of my visit, I am not entitled, under the recently enacted regulations governing travel to Cuba (32 C.F.R. 515.560, as amended April 20, 1982), to receive either a general or specific license to travel to Cuba and that these regulations prohibit my travelling to Cuba entirely.

Sworn to under the pains and penalties of perjury, this 7th day of June, 1982.

/s/ Ruth Wald
RUTH WALD

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF BARNSTABLE June 7, 1982

Then personally appeared before me the above-named RUTH WALD and made oath that she has read the foregoing Affidavit and that the contents thereof are true.

/s/ Ruth B. Campbell
Notary Public
My Commission Expires: June 24, 1983

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No.

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

AFFIDAVIT IN SUPPORT OF MOTION FOR A PRELIMINARY INJUNCTION

COMMONWEALTH OF MASSACHUSETTS)

COUNTY OF MIDDLESEX)

MARIAN LOWE, being duly sworn, deposes and says:

1. I am a citizen of the United States and reside at 10 Arnold Circle, Cambridge, Massachusetts. I am an Associate Professor of Chemistry at Boston University.

2. I wish to visit Cuba for at least ten (10) days commencing on or about August 15, 1982. I cannot postpone my trip to Cuba since my academic duties at Boston University commence early in September. If I am not able to visit Cuba this August, I will not be able to visit that country in the foreseeable future.

3. I have visited several countries in Latin America and, I am interested in visiting Cuba since I am curious about the country. I am particularly interested in learning how the role of women has changed in Cuba since 1969.

4. I am not going to Cuba to gather news, engage in professional research, to visit relatives, to give public performances, or for humanitarian purposes.

5. It is my understanding that, given the purposes of my visit, I am not entitled, under the recently enacted regulations governing travel to Cuba (32 C.F.R. 515.560, as amended April 20, 1982), to receive either a general or specific license to travel to Cuba and that these regulations prohibit my travelling to Cuba entirely.

Sworn to under the pains and penalties of perjury, this 8th day of June, 1982.

/s/ Marian Lowe
MARIAN LOWE

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS. June 8, 1982

Then personally appeared before me the above-named MARIAN LOWE and made oath that she has read the foregoing Affidavit and that the contents thereof are true.

/s/ Duran Bauman

My Commission Expires: Nov. 12, 1987

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RUTH WALD, ET AL., PLAINTIFFS

—against—

DONALD REGAN, ET AL., DEFENDANTS

AFFIRMATION

COMMONWEALTH OF MASSACHUSETTS)
) ss.:
COUNTY OF MIDDLESEX)

I, Rev. Alice Hageman, being of full age, declare and affirm:

1. I reside at 37 Boylston Street, Jamaica Plain, Massachusetts 02130.

2. I am co-Pastor of the Church of the Covenant (United Church of Christ and United Presbyterian Church, USD), Boston, Massachusetts.

3. I have visited Cuba on several occasions and have been invited by the Women's Department of the Cuban Ecumenical Council to visit Cuban for two weeks in August of 1982. All of my expenses for this trip would be paid for by residents of Cuba and in Cuban currency. I am in substantial doubt due to the vagueness of recently enacted travel regulations affecting travel to Cuba as to whether I may be prosecuted for violation of the Trading with the Enemy Act even though my travel will result in no financial benefit to Cuba.

4. I am also actively engaged in planning a trip of lay people and clergy to study religion in Cuba in 1983. As a result of the recently enacted travel regulations I have substantial doubts as to whether such a trip is permitted.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 8, 1982.

/s/ Alice J. Hageman

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

No.

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

AFFIDAVIT

STATE OF ILLINOIS
COUNTY OF COOK

I, LINDA TURNER, being of full age, declare and affirm as follows:

1. I am a citizen of the United States and a resident of the City of Chicago, State of Illinois.
2. I am employed as a secretary, which is my occupation.
3. I have been interested in Cuban society for many years, and in fact have visited that country four times in the past 12 years.
4. I am concerned that Americans learn about the reality of Cuban society, and to that end I take photographs and slides during my visits, in order to make presentations to groups of Americans about life in Cuba.
5. I am interested in approaching Jewish synagogues in the Chicago area, to interest them in having educational programs on Cuba. To better conduct an educational presentation on Cuba and in particular the Jewish community in Cuba, I need first-hand information gained through interviews and discussions with Cuban Jews.

6. I had plans to visit Cuba this winter. One of my particular interests was to speak with the leaders of the Jewish community in Havana, particularly the Librarian of the main synagogue there with whom I am acquainted, in order to obtain up-to-date information.

7. I feel that my right to travel to Cuba is guaranteed to me under the United States Constitution, and that any restriction on my right to travel is therefore unconstitutional.

8. I understand that the new regulations promulgated by the U.S. Treasury Department contain vague exceptions. I am uncertain as to whether I fall within those exceptions, and therefor fear that if I do travel to Cuba as planned, I might be subject to criminal prosecution.

I declare, under penalty of perjury, that the foregoing is true and correct.

DATED: June 8, 1982

/s/ Linda Turner
LINDA TURNER

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

STATE OF CALIFORNIA
COUNTY OF ALAMEDA

I, Karen Wald, being of full age declare and affirm:

1. I am a coordinator of the Cuba Resource Group, Post Office Box 7021, Oakland, CA 94601. I have particular responsibility for the group's travel activity.

2. The Cuba Resource Group is an unincorporated association which serves as an educational resource and information center about Cuba.

3. Among the services that the group provides are sponsoring tours and providing referral services as to how groups and individuals can travel to Cuba either singly or in tours.

4. In the past the Cuba Resource Group has sponsored "family tours" (for parents and children to travel together to Cuba to learn about that country) and also a tour for teachers which involved studying the educational system of Cuba as well as general tourist activities.

5. The Cuba Resource Group receives a ten to fifteen percent commission from each person travelling on our own tours and for each person who is referred by us and who travels on a regular package tour sponsored by various travel agencies.

6. I have read the new regulations regarding travel to Cuba and find them so vague and ambiguous that the Cuba Resource Group is unable to function as an information center as to travel or to sponsor tours as we did in the past. We do not know how to advise people as to travel under the new regulations.

7. In particular, for example, we do not know what constitutes travel for the purposes of "professional research or similar activities"; travel which is permitted without a government license under the regulations, thus we are unable to organize tours to Cuba when the people who go on them, and we as organizers, could face criminal prosecution.

8. The Cuba Resource Group is not only prevented from arranging travel to Cuba but is also prevented from facilitating the exchange of information and diverse views between Cubans and Americans.

9. We are also prevented from receiving the funds we would normally obtain from arranging tours and from referring people to travel agencies sponsoring package tours. This loss of funds significantly harms our organization.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on June 5, 1982.

/s/ Karen Wald
KAREN WALD

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

No.

RUTH WALD, ET AL., PLAINTIFFS

—*v.*—

DONALD REGAN, ET AL., DEFENDANTS

AFFIDAVIT

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

Robert C. Howard, being first duly sworn, states:

1. I am a citizen of the United States and a resident of the City of Chicago, State of Illinois.

2. I am a practicing attorney, admitted to the bars of the State of Illinois and the Federal Court. I graduated from Harvard Law School in June 1967. I am a partner in the firm of Pressman & Hartunian, Chtd., Room 4005, 55 East Monroe Street, Chicago, Illinois 60603.

3. I have been interested for some time in going to Cuba for purposes of a winter vacation and to see the country, its people and its culture. I have previously visited Jamaica (four times) and Mexico (two times) for similar reasons.

4. In March 1982, I decided to make a trip to Cuba for the above purposes in December 1982, together with my children and several friends.

5. The Cuban Assets Control Regulations: Travel-Related Transactions, issued by the Department Of The

Treasury effective May 15, 1982, appear to pose a significant obstacle to my making the trip to Cuba described in paragraphs 3 and 4. The regulations state that there is no general license for financial transactions in connection with tourist travel to Cuba. I have therefore had to cancel the decision made in March 1982 concerning travel to Cuba.

6. The new regulations also contain vague exceptions concerning circumstances in which there is a general license for transactions in connection with travel to Cuba (e.g., "for the purpose of gathering news, making news or documentary films, engaging in professional research, and for similar activities . . . ."). The vagueness of these regulations leaves me unclear as to what type of purposes will be regarded as valid for travel to Cuba, and what type of purposes might subject me to adverse governmental action of some kind.

7. The obstacles and uncertainties posed by the new regulations are injurious to me because they interfere with my freedom to travel where I wish; because I have been compelled to cancel my travel plans as described above; because I apparently precluded from travel to Cuba for purposes of tourism and of learning about the country, its people and its culture; because I am apparently precluded from affording my children the opportunity of travel to Cuba for these purposes; and because I am left in considerable uncertainty, concerning travel to Cuba, as to the purposes that might be regarded as valid and the purposes that might subject me to some form of adverse action by the government.

/s/ Robert C. Howard
ROBERT C. HOWARD

SUBSCRIBED AND SWORN to
before me this 4th day
of June, 1982.

/s/ Elizabeth Lynch
Notary Public

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RUTH WALD, ET AL., PLAINTIFFS

—against—

DONALD REGAN, ET AL., DEFENDANTS

AFFIRMATION

STATE OF PENNSYLVANIA)
) ss.:
COUNTY OF BUCKS)

I, Francis E. Bradley being of full age, declare and affirm:

1. I am a United States citizen residing in Newton, Bucks County, Pennsylvania.

2. I am Assistant Headmaster of George School, a secondary school operated by the Society of Friends (Quakers) in Newton, Pennsylvania.

3. I have been engaged since Autumn, 1981 in planning a trip to Cuba for a group of students from various Friends' schools in Pennsylvania and the Northeastern United States. A document describing the schedule planned for the trip, distributed to persons applying for the trip, is attached as Exhibit A *infra*.

4. The trip is scheduled to depart for Cuba on June 18, 1982.

5. I will be the leader of the trip. The purpose of the trip is educational, and for this reason the trip is sponsored by the George School.

6. On April 23, 1982, formal permission for the trip was requested through an application for a license from the Office of Foreign Assets Control. A copy of that letter is attached as Exhibit B *infra*.

7. Congressman James K. Coyne, who represents the district in which I live and work, wrote the Office of Foreign Assets Control in support of the request for permission to travel. A copy of that letter is attached as Exhibit C *infra*.

8. We have been verbally told by the Office of Foreign Assets Control that the requested permission has been denied. We have been promised a written response to the request, but to date none has been forthcoming.

9. I have previously led a similar trip to Cuba for a group of students from Friends' schools in 1978.

10. The government's actions deny us the right to travel to Cuba and to acquaint ourselves at first-hand with a different culture and social system. The trip which I plan to lead would be a valuable educational opportunity for those traveling, both for myself, as leader, and for the students, and the deprivation of our rights and violation of our freedoms has caused us and our country substantial injury.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 4, 1982.

/s/ Francis E. Bradley

EXHIBIT A

GEORGE SCHOOL

FRIENDS' SCHOOL CUBA TRIP

TENTATIVE ITINERARY

JUNE 16-1:00 p.m.

Arrive at George School

JUNE 16-18

Preparation for trip through a series of films, speakers and discussions . . . time to become acquainted with students from other schools

JUNE 18

Depart from George School for Newburgh, New York to leave via Arrow Airlines for Havana

JUNE 18

Arrive in Havana

JUNE 18-JULY 2

Travel in Cuba to include the following cities and towns: Havana, Santiago, Holguin, and the Isle of Youth

JULY 2

Departure from Havana—arrive at George School

I.C.A.P. (The Cuban Friendship Institute), in response to our requests, has arranged a trip which will promote a dialogue with Cuban Youth and acquaint us with Cuban history, culture, and education.

Our schedule will include the following:

1. MUSEUMS (in Havana)
   - —Literacy Musem
   - —Museum of the Revolution
   - —Museum of the Cuban People (Museo del Pueblo Combatiente)
2. CULTURAL ACTIVITIES
   - —Baseball game
   - —Musical or dance concert
   - —Coffee House, featuring folk music
3. ORGANIZATIONAL MEETINGS—Representatives from the following groups plan to meet with us in Havana—
   - —Student Christian Movement
   - —Federation of Women
   - —Cuban Friendship Institute
   - —Federation of Secondary School Students
   - —Young Communist League
   - —A meeting with a committee for the Defense of the Revolution
4. SCHOOLS
   - —Visits to: Elementary School, Day Care Center, Secondary Schools in rural and urban settings, as well as the new Sports School, Lenin Technical School, and the Jose Marti Pioneer Camp
5. CHURCH GROUPS
   - —One Sunday will be spent attending several Cuban churches through the Cuban Ecumenical Council

6. PRESENTATIONS AND DISCUSSIONS

—We will be part of the programs on the "Effects of the Economic Blockade of Cuba" as well as "The struggle to Eliminate Racism in Cuba

—We will also attend a baseball game

TRIPS OUTSIDE OF HAVANA WILL INCLUDE

—Flight to Santiago with return by bus

—Two days with Cuban Friends in the small city of Holguin

—A visit to the Moncada

—Two-three days on the Isle of Youth, an island off the S.W. coast of Cuba where international students are invited, mostly from Third World Countries to learn of the Cuban experience. Our group plans to spend time with the international students in a camp setting which will include a cultural program

GEORGE SCHOOL

23 April 1982

Chief of Licensing
Foreign Assets Control
Department of the Treasury
1331 G Street, N.W.
Washington, D.C. 20220

Dear Friends:

As a result of discussions with the Cuban Government during the last 12 months, George School has been invited by the Cuban Friendship Institute (I.C.A.P.) to sponsor an educational visit to Cuba. The group is comprised of 20 teachers and students from 7 Quaker schools on the east coast. The participants are scheduled to arrive at George School for a two-day orientation beginning on 16 June 1982; departure for Cuba is scheduled for 18 June; and the delegation is to return to the United States on 2 July.

The purpose of the visit to Cuba is to promote discussions between Cuban and American youth and to educate the students and teachers in our schools about the country of Cuba. At a time when tension is increasing in the Caribbean basin, I am persuaded that educational trips of this kind by private educational and religious groups take on increased importance.

I am writing to your office at the suggestion of Congressman James Coyne to request formal authorization for the George School delegation to travel to Cuba for the purposes I have described above. I have enclosed an itinerary for your information together with a George School catalogue. Naturally I am anxious to answer further questions you might have about the trip if that would be useful.

I understand that Mr. Ray Konan, on your legal staff, has advised Congressman Coyne that you would normally

be able to verify authorization within the next week. In view of the fact that a number of families are involved in plans, I do want to ask that you communicate with me on this matter as soon as possible.

Thank you very much for your assistance.

Sincerely,

/s/ David L. Bourns
DAVID L. BOURNS

DLB:mp

cc: Congressman James Coyne; Mar Azul Travel Agency

EXHIBIT C

[SEAL]

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
Washington, D.C. 20515

April 22, 1982

Chief of Licensing
Foreign Assets Control
Department of the Treasury
1331 G Street, N.W.
Washington, D.C. 20220

Dear Sir:

Following up my staff assistant's telephone conversation with Mr. Ray Konan, I am writing in support of the request for permission to travel to Cuba made by The George School, a private high school located in my district.

It is my understanding that The George School has arranged a trip to Cuba for the period of June 18 to July 2 for a delegation of students from both The George School as well as other Friends' schools. This visit continues the tradition and longstanding policy of The George School to promote intercultural understanding through the many exchange programs and trips to foreign nations. The purpose of this trip is exclusively educational. This delegation of students will be meeting with other schools in Cuba, as well as with church groups and various community organizations. As a resident of the Newton area, I have been familiar with the goals and pursuits of The George School for many years. It is my belief that this trip will help to broaden the outlook of these students

and expose to them a contrasting political-economic system.

Thank you for your prompt attention to this matter.

Sincerely,

/s/ Jim Coyne
JAMES K. COYNE
Member of Congress

JKC/np

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil No. 82-1690-T

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

MOTION FOR A TEMPORARY RESTRAINING ORDER

Pursuant to Rule 65, Fed. R.Civ.P., plaintiff Francis E. Bradley respectfully moves for a temporary order restraining defendants from interfering in any way, including by threats or subsequent punishment, with the trip to Cuba which he is scheduled to lead on or about July 9, 1982 for up to fourteen high school students from various Friends' schools.

The groups for this motion appear in the attached declaration of Charles S. Sims; the affirmation of Francis E. Bradley, filed on Thursday, June 17, 1982; and the Brief in Support of Plaintiffs' Motion for Preliminary Injunction, also filed on June 17, 1982.

/s/ Charles S. Sims
CHARLES S. SIMS
American Civil Liberties
Union Foundation
132 West 43rd Street
New York, New York 10036
212/944-9800

DORIAN BOWMAN
JUDITH FARRIS BOWMAN
Bowman & Bowman, Esqs.
51 Brattle Street, Suite 37
Cambridge, Massachusetts 02138

LEONARD B. BOUDIN
ERIC M. LIEBERMAN
JULES LOBEL
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, P.C.
National Emergency Civil
Liberties Committee
30 East 42nd Street
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SARAH WUNSCH
MARGARET L. RATNER
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HAROLD A. MAYERSON
DEBRA EVANSON
National Lawyers Guild
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New York, New York 10017
212/599-2954

VICTOR GOODE
DEBORAH JACKSON
National Conference of Black
Lawyers
126 West 119th Street
New York, New York 10026
212/864-4000

June 23, 1982

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil No. 82-

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

DECLARATION OF CHARLES S. SIMS

I, CHARLES S. SIMS, being of full age, declare and affirm:

1. I am attorney for Francis E. Bradley in this action and make this declaration of facts in my own knowledge.

2. Since May, 1981, I have been in frequent contact with Mr. Bradley concerning his plans (detailed in the Complaint and in his affirmation previously filed) to lead a trip to Cuba for a group of fourteen students from various Friends' schools in Pennsylvania and the northeastern United States. That trip was originally scheduled to leave for Cuba on June 18, 1982.

3. When preparation of the complaint and papers for a motion for preliminary injunction made it clear that the filing of the complaint would be delayed until June 17, 1982, I informed Mr. Bradley that he could not realistically expect to receive judicial relief by June 18, 1982.

4. Mr. Bradley thereupon undertook to contact the families of the fourteen young persons who had agreed to participate on the trip to determine whether the trip

could be delayed; if so, until what date; and the date by which families would need to know one way or the other so as to make alternative plans for their teenagers' vacations. He also contacted the charter operator and Cuban officials to learn whether the trip could be delayed.

5. Mr. Bradley informed me this morning of the following information. First, one trip participant has already cancelled because of the delay and the uncertainty concerning whether the trip will be permitted to leave by United States authorities. Second, a sufficient number of families will be able not to withdraw if the trip can leave no later than July 9, 1982, but only if they can be reliably so informed by Friday, June 25, 1982. Otherwise, it appears that if no decision is forthcoming by that time, the trip will have to be cancelled because of numerous additional withdrawals. Third, it appears that, so far as the charter operator and Cuban officials are concerned, the trip can be delayed until July 9, 1982 and not later.

6. As Mr. Bradley emphasized to me, the young people on the trip have planned for it for months. In some cases the students have raised their own money for it. They, and their families, have made and relied on summer plans based on the previous longstanding policy of the United States government to permit travel to Cuba. It is extremely late to be making changes in their summer plans. Many other trips or vacation plans which those families and their teenagers could have made have been foregone in reliance on that previous government policy. The change in policy has resulted in great disruption and irreparable harm to Mr. Bradley and those young people, detailed in his affirmation previously filed. Their right to travel and their First Amendment right to seek information on Cuba at first-hand will be irreparably damaged.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 22, 1982.

/s/ Charles S. Sims
CHARLES S. SIMS

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 82-1690-T

RUTH WALD, MARIAN LOWE, ROSARIO MORALES, FRANCIS E. BRADLEY, REV. ALICE HAGEMAN, CUBA RESOURCES GROUP, ROBERT C. HOWARD, CENTER FOR CUBAN STUDIES, LINDA TURNER

v.

DONALD REGAN, Secretary of the Treasury, JOHN M. WALKER, JR., Assistant Secretary of the Treasury, DENNIS M. O'CONNELL, Director, Office of Foreign Assets Control, ALEXANDER M. HAIG, JR., Secretary of State, and RONALD WILSON REAGAN, President of the United States

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REPORT RE: MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER SCHEDULING HEARING ON MOTION FOR PRELIMINARY INJUNCTION

COLLINGS, U.S.M.

This case was ordered referred to a United States Magistrate for findings and recommendations on the plaintiffs' (1) Motion For A Temporary Restraining Order (#06, filed 6/23/82) and (2) Motion For a Preliminary Injunction (#03, filed 6/17/82).

A hearing was scheduled before me on the Motion For A Temporary Restraining Order for 10:00 A.M., Friday, June 25, 1982. Since notice was given to the United States Attorney for the District of Massachusetts with respect to the hearing and since the United States Attorney indicated that an Assistant U.S. Attorney would

be present at the hearing it was my intention to hear the Motion For A Temporary Restraining Order as a motion seeking a preliminary injunction just as to those matters as to which relief was sought in the Motion For A Temporary Restraining Order. It was my view that treating the Motion For A Temporary Restraining Order in this way, I would have the power to hear the matter and make findings and recommendations to the Court pursuant to Rule 3(a)(3) of the Rules For United States Magistrates In the United States District Court For The District Of Massachusetts, which provides, in pertinent part:

> In accordance with 28 U.S.C. Section 636(b)(1)(B) and (C), a full-time magistrate . . . may conduct such evidentiary hearings as are necessary or appropriate, and submit to a judge proposed findings of fact and recommendations for the disposition of: (3) motions for injunctive relief (including preliminary injunctions but excluding motions for temporary restraining orders) . . .

However, at the outset of the hearing at 10:00 A.M. on June 25th, both counsel for the plaintiffs and counsel for the defendants objected to my characterizing the motion as one for injunctive relief as opposed to one seeking a temporary restraining order and, as a consequence, both took the position that I did not have the power to hear the Motion For A Temporary Restraining Order. In these circumstances, I was of the view that I should not proceed to hear the Motion For A Temporary Restraining Order, however characterized, without further instructions from the District Judge to which this case is assigned.

Upon consultation with the District Judge to whom this case is assigned, I was advised not to hear the Motion For A Temporary Restraining Order over the objection of the parties and, since he was not available to hear the Motion, to return the file to the Clerk for reference to the Judge currently assigned to the Miscellaneous Business Docket.

Therefore, the file is returned to the Clerk's Office with instructions to refer the Motion For A Temporary Restraining Order to the District Judge currently assigned to the Miscellaneous Business Docket.

It is ORDERED that the Motion For A Preliminary Injunction be heard at *2:00 P.M. on Thursday, July 1, 1982 at Courtroom #8, Ninth floor, John W. McCormack Post Office and Court House, Boston, Massachusetts*, this being the date agreed upon by the parties for the hearing on said motion.

/s/ Robert B. Collings
ROBERT B. COLLINGS
United States Magistrate

June 25, 1982.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 82-1690-T

Magistrate No. 82-

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

DEFENDANTS' OPPOSITION TO PLAINTIFF BRADLEY'S MOTION FOR TEMPORARY RESTRAINING ORDER

Defendants Donald Regan, et al., oppose recommendation by the Magistrate of grant of a preliminary injunction to Francis E. Bradley. Plaintiffs have shown no adequate basis for precipitously licensing the George School group to travel to Cuba without the special permit from the Secretary of the Treasury required under the Trading With The Enemy Act ("Act"), § 5(b), and regulations promulgated thereunder.

1. *Plaintiffs Have Not Established A Substantial Probability Of Success On The Merits Because The New Regulations Are Constitutional And Congressionally-Authorized*

None of plaintiffs' several attacks upon the newly issued regulation, 31 C.F.R. § 515.560, show a substantial probability of success on the merits.

Plaintiffs' principal claim is that the new § 515.560 is barred by the 1977 amendments to the Act. In plaintiffs' view Congress, by grandfathering then-exercised "uses"

of § 5(b) authorities, meant to freeze the particular uses of those authorities as to a particular country. That is to say, plaintiffs claim that Congress intended that then-existing § 5(b) regulations regarding Cuba could no longer be changed absent compliance with the new emergency procedures established by the International Emergency Economic Powers Act, 50 U.S.C. § 1701 *et seq.* ("IEEPA"). Since the President has not declared a new emergency under IEEPA regarding Cuba, the claim runs, the new amendments to the Cuban Asset Control Regulations are *ultra vires.* Plaintiffs support their claim by selected quotations from the legislative history of the grandfather clause.

A deeper look, however, shows the baselessness of plaintiffs' interpretation. First, plaintiffs' brief misrepresents the structure of the Cuban Asset Control Regulations in 1977. In July, 1977, § 515.560 did indeed authorized travel transactions with Cuba (prior to 1977 travel transactions were banned under the regulations), but only as an *exception* to the standing exercise under § 5(b) of the authority completely to prohibit *any* economic transactions with Cuba. *See* 31 C.F.R. § 515.201. Even if plaintiffs' view of legislative intent is correct, in other words, the Secretary in 1977 was exercising his § 5(b) authority to regulate travel transactions with Cuba, but in the conditions of those times permitted such travel.

More importantly, however, plaintiffs' interpretation of legislative intent is clearly wrong. Review of the complete transcripts of the various hearings noted by plaintiffs makes plain that the Committee had no intention to restrict exercise of § 5(b) regarding countries, such as Cuba, as to which a declaration of national emergency had been invoked as of 1977 (other than to require the President annually to declare that continuation of such declarations of emergency were in the national interest). *See* Hearings Before the Sub-committee on International Economic Policy and Trade, 95th Cong., 1st Sess., on H.R. 1560 and H.R. 2382, at 165-219 *passein* (attached hereto as Exhibit A).

For example, Representative Bingham at p. 211 makes clear that the intent was to grandfather "existing situations", i.e., countries. A spokesman for the Administration, Mr. Santos, at p. 191 specifies that "particular emergencies" were being grandfathered; and at p. 211, Mr. Santos and Mr. Majik, a committee staffer, had a colloquy to the effect that the legislation was not aimed at "existing" —— usages" of the emergency power so that, if a President claimed a need to do something new in Cuba, his authority would be "automatic" under the grandfather clause. *See also* H.R. 95-459 at p. 13, which describes the bill as permitting the President to extend all "existing uses" of § 5(b) authorities by merely renewing the declarations of emergency.

Plaintiffs seek to capitalize upon an inherent ambiguity of the phrases "exercise" and "usage" of § 5(b) authority: do the phrases mean actual regulations stemming from such powers or the underlying assertion of such powers regarding particular countries? Defendants submit that a fair reading of the entire legislative history conclusively establishes that Congress meant to grandfather existing emergencies, not to freeze particular regulations. Had the latter been its intent, Congress would have said so in its enactment.

Third, and conclusively on this motion, the only court to have faced the meaning of the grandfather clause, not surprisingly, upheld the Secretary's power to issue new controls regarding Cuba under § 5(b) in order to deal with new facets of the declared emergency. *United States* v. *Fernandez-Pertierra*, No. 81-233-CR-JWK, Southern District of Florida (September 30, 1981) (copy attached as Exhibit B), was a criminal prosecution for violations of 31 C.F.R. § 515.415, a regulation promulgated in 1980 under § 5(b) and its grandfather clause in order to deal with the "Freedom Flotilla" from Mariel, Cuba. The defendant there raised the self-same claim as plaintiffs that no new regulations regarding Cuba were permissable. The Court, however, slip opinion at p. 4, held that new

regulations with regard to a country already subject to § 5(b) were permitted. On this claim, accordingly, plaintiffs have not come close to meeting their burden of showing a substantial probability of success on the merits.

Plaintiffs' other claims are equally meritless. Regarding the Passport Act, clearly limitation of one power does not entail limitation of a distinct power. That printing travel restrictions into passports is no longer authorized says nothing about the President's ability to use other powers to restrict an opposing nation's economic means. The regulations in question, by preventing members of the George School group from spending "hard currency" in Cuba, clearly do serve primarily to further the purposes of the Act, and cannot be viewed simply as an evasion of the Passport Act. Indeed, such a purpose is belied by the general and special permits that the regulations provide for travel transactions with Cuba.

Plaintiffs' constitutional claims are equally unavailing. It is well-settled that the freedom to international travel may be incidentally restricted by foreign policy or other concerns, *Haig* v. *Agee*, 453 U.S. 280, 307 (1981); *Califano* v. *Aznavorian*, 439 U.S. 170, 177 (1978); *Zemel* v. *Rusk*, 381 U.S. 1 (1965). A reasonable basis for the restrictions is required, not a "compelling" one, *Aznavorian*, *supra*. Given that "Protection of the foreign policy of the United States is a governmental interest of great importance, "*Agee*, *supra*, at 307, and that such matters "are rarely proper subjects for judicial intervention," *id.* at 292, plaintiffs clearly have not met their high burden to show substantial probability of success on the merits. Much more complete consideration of their claims is required prior to reaching such a conclusion.

2. *The George School Group Will Suffer No Irreparable Harm From Delay*

Nothing in the record suggests that the members of the George School group will suffer irreparable harm if their motion is denied pending a more complete consideration

of this case. First, plaintiffs do not claim that any member of the group will permanently lose the option of traveling to Cuba if this trip is cancelled but plaintiffs ultimately prevail. The only loss would be participation in *this* trip, but plaintiffs do not claim any uniqueness of this trip, and this trip is hardly an entity with rights of its own. Any harm, therefore, consists entirely of delay in the group members exercise of the rights they claim.

In the circumstances, such delay cannot qualify an irreparable harm sufficient to force the Court into a hasty decision. Such delay is in itself too insubstantial. Further, the risk of such delays was brought on by plaintiffs themselves. The regulations were promulgated in April, and clearly were aimed at preventing travel transactions such as planned by the George School. Yet only now have plaintiffs come to Court demanding instant decisions, even though their planned departure date is two weeks away. See *Anderson* v. *Federal Election Commission*, 635 F.2d 3 (1st Cir. 1980).

Finally, plaintiffs and defendants agreed that a hearing on the plaintiffs' initial motion for a preliminary injunction would take place no earlier than June 29. Defendants' counsel will be in Washington, D.C. on June 28 to consult with representatives of the Treasury, Justice, and State Departments, to prepare affidavits, and to help crystallize an emerging policy. In such circumstances, denial of relief at least until further hearing next week is clearly desirable.

3. *A Balancing Of Harms Tips Against Relief Because Issuance Of Relief Would Decide The Ultimate Question As To These Plaintiffs.*

Grant of the requested relief would moot the question of the new regulations' validity as applied to the George School group. The purpose of the new regulations would be completely eviscerated insofar as such travellers are concerned. While the amount of foreign exchange Cuba

would earn from the George School trip is not in itself enormous, clearly the economic benefit to Cuba is not *de minimus*. In any event, there is no requirement for a *de minimus* exception to the regulations, *Orrin* v. *Secretary of the Treasury*, C.A. No. 2408-69 (D.D.C.) (April 27, 1972) (seizure of three books purchased in Vietnam).

Such finality of the requested relief clearly cuts against granting relief. *Anderson*, *supra*. As against the finality of harm to the purposes of the regulations, plaintiffs interpose mere delay in their opportunity to go to Cuba. Balancing those factors clearly should result in a denial of relief, particularly where plaintiffs' case on the merits is so weak.

4. *The Public Interest Has Been Established In The Regulations.*

Through the original invocation of the Act's powers against Cuba, through continuation under a succession of Administrations of that invocation, and through Congressional endorsement by the grandfather clause, this country's foreign policy regarding Cuba has been definitely established. The current Administration's particular decisions concerning the need to use the Act's various authorities against Cuba must be accorded the Court's usual deference to the President's "plenary and exclusive power . . . as the sole organ of the federal government in the field of international relations." *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936); see *Haig* v. *Agee*, *supra*. While the freedom of international travel is indeed important, the public interest of this nation lies as well in a strong and consistent foreign policy. The public interest in this case, accordingly, lies in upholding the new regulations at least pending definitive consideration of their validity. In the area of foreign relations, the public interest permits no precipitous erosion of the President's congressionally authorized powers.

Conclusion

For the reasons stated, the Magistrate should recommend against grant of preliminary relief—relief that will finally decide the case as to the George School group.

By their attorney,

WILLIAM F. WELD
United States Attorney

by: /s/ R. A. Child
RALPH A. CHILD
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil No. 82-1690-T

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

TEMPORARY RESTRAINING ORDER

On consideration of plaintiff Francis E. Bradley's motion for a temporary restraining order, the accompanying papers and defendants' opposition thereto, it is hereby

ORDERED, that defendants, their servants, agents and employees are hereby temporarily restrained from interfering in any way, including by threats or subsequent punishment, with a trip to Cuba Mr. Bradley is scheduled to lead on or about July 9, 1982, for up to fourteen high school students from various Friends' schools, pending a further hearing on a motion for preliminary injunction.

/s/ P. David Mazzone
P. DAVID MAZZONE
United States District Judge

Date: JUNE 25, 1982 3:30 PM

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action File No. 82-1690-T

RUTH WALD, MARIAN LOWE, ROSARIO MORALES, FRANCIS E. BRADLEY, REV. ALICE HAGEMAN, CUBAN RESOURCE GROUP, ROBERT C. HOWARD, CENTER FOR CUBAN STUDIES, LINDA TURNER, PLAINTIFFS

v.

DONALD REGAN, JOHN M. WALKER, JR., DENNIS M. O'CONNELL, ALEXANDER M. HAIG, JR., RONALD WILSON REAGAN, DEFENDANTS

DECLARATION OF MYLES R. R. FRECHETTE

Myles R. R. Frechette, under penalty of perjury, declares and says as follows:

1. I am a career Foreign Service officer in the Foreign Service of the United States. In my present assignment I am the Director of the Office of Cuban Affairs in the Department of State. I have held that office since August 27, 1979. I have previously served for over two years in the Office of Cuban Affairs (1963-1965) and have dealt over the intervening years with various aspects of Cuban foreign policy in carrying out my responsibilities as a Latin American specialist in the Foreign Service.

2. As Director of the Office of Cuban Affairs, I am familiar with the United States policy concerning Cuba. I am responsible for the day-to-day conduct of U.S. foreign policy concerning Cuba in implementation of policy guidance provided by the President, the Secretary of State, and the Assistant Secretary of State for Inter-American Affairs.

3. I make this declaration, which is based upon information made known to me in the performance of my offi-

cial duties, in order to explain the foreign policy interests underlying the modification of the Treasury Department regulations at issue in this case and to explain the injury to our foreign policy interests that would result if this court should grant a preliminary or other injunction against enforcement of those regulations.

4. The United States does not now, and has not for many years, enjoyed good relations with the Government of Cuba. Since 1978, Cuba, with Soviet political, economic and military support, has provided widespread support for armed violence and terrorism in this hemisphere. Cuba also provides and maintains close to 40,000 troops in various countries in Africa and the Middle East where these forces impede political solutions to regional problems and further Soviet foreign policy interests. It is important to U.S. national security to counter Cuban efforts to further Soviet strategic goals.

5. Since 1963, the United States Government has blocked Cuban assets in this country and has maintained a near total embargo on trade in both goods and services between the United States and Cuba as a vital element of our overall foreign policy towards that country. These controls provide our principal means of expressing our rejection of Cuba's conduct and of increasing the cost to Cuba of its adventurism in this hemisphere and elsewhere.

6. Beginning in 1963, and continually since then, these controls have covered transactions related to travel to Cuba. The regulations at issue in this case involve a partial return to the tighter licensing restrictions on travel related transactions which were in effect between 1963 and 1977. They were adopted as a means to impose additional economic costs upon Cuba in the face of that country's promotion of armed violence, terrorism, and instability in this hemisphere and elsewhere in the world.

7. The Cuban economy suffers from acute mismanagement and a chronic shortage of freely convertible Western currency. At the moment, Cuba's hard currency position is especially difficult; Cuba's foreign debt to the West

is about $2.6 billion, about $1.7 billion of which is owed to Western banks.

8. The Government of Cuba has begun actively to promote tourism to Cuba from the United States, from Canada, and from other Western countries as a major source of badly needed hard currency.

9. The regulations at issue in this case were adopted not only to deny Cuba current hard currency income derived from tourist and exploratory business travel by U.S. nationals, but more importantly to restrict future hard currency income sought by Cuba through a planned major expansion of its tourism industry. This action was taken as a sanction against Cuba in order to inflict a clear and substantial cost on Cuba's continued adventurism and support for subversion. These regulations on transactions related to travel to Cuba then are an integral part of the overall embargo on trade with Cuba which denies that country the benefits of significant economic interaction with U.S. markets or U.S. nationals.

10. Accordingly, the regulations at issue in this case were adopted to serve important foreign policy interests of the United States. An injunction against the application of these regulations would substantially harm these foreign policy interests and therefore be inconsistent with the public interest. In the short term, such an injunction would suggest to the Cubans and to their Soviet patrons that the United States may be weak or ineffective in its response to Cuban adventurism. Moreover, over the longer term an injunction against these regulations would permit Cuba increased access to hard currency via U.S. business and pleasure travelers. This would contribute to the stability and viability of the Castro regime and to its continuation of policies detrimental to U.S. national interests.

I declare, under penalty of perjury, that the foregoing is true to the best of my knowledge and belief.

/s/ Myles R. R. Frechette
MYLES R. R. FRECHETTE

Current Policy No. 352

STRATEGIC SITUATION IN CENTRAL AMERICA AND THE CARIBBEAN

December 14, 1981

United States Department of State
Bureau of Public Affairs
Washington, D.C.

Following is a statement by Thomas O. Enders, Assistant Secretary for Inter-American Affairs, before the Subcommittee on Western Hemisphere Affairs of the Senate Foreign Relations Committee, December 14, 1981.

Major Developments

There are four major developments that have come together to create what can only be described as a state of danger in the Caribbean Basin.

One is the new Cuban strategy for uniting the left in the countries of the region, committing it to violence, arming it, training it in warfare, and attempting to use it for the destruction of existing governments. I say new because it is only 3 years ago that the policy was adopted. Prior to 1978—for some 10 years since the death of Che Guevara on an Andean hillside—Cuba had made a sustained effort to portray itself as a member of the international community not unlike others, carrying on state-to-state relations through embassies, emphasizing trade and cultural contacts.

Observing this pattern, many in this and other countries of the hemisphere began to hope that revolutionary Cuba was on the way to becoming a status-quo nation. The 1970s, of course, were marked by Cuban intervention in Africa on a continent-wide scale. But, it was argued, Africa was a special case.

The turn came in 1978, when Cuba decided to back the insurrection in Nicaragua. At first it was not apparent to many that a new Cuban strategy was in operation, for Nicaragua seemed like a case all of its own. But then the same thing was tried in El Salvador, in Guatemala, in Colombia; now it is being tried in Honduras.

We have attempted to identify and illustrate the full scope of this new Cuban strategy in a research paper (see Special Report No. 90), which I would like to submit to the committee for its study. The paper is based on both public and intelligence sources. It was not written to make sensational revelations, and it does not. But I wonder how many Americans are aware of the sweep and the sophistication of what is going on. In many countries of the region, Cuba is attempting no less than to construct a machine to destroy the established governments.

The pattern is always the same. For years the radical left in the area has been divided by disagreement over tactics. The old-line Comintern parties argued patience: You only had to wait for Marx's famous objective conditions to emerge, and the revolution would occur. Other factions were for setting up Che Guevara-style *locos*: put some armed guerrilleros into the countryside and their presence will radicalize the peasants. Others were for *guerro prolongada*: discredit the regime by hitting the economy. Still others advocated spectacular kidnapings and assassinations.

Let me in this regard make a remark on the subject of proposals for negotiation between the government and the insurgents. Members of the Frente Democratico Revolucionario (FDR) say they want to talk about "restructuring the army" and "establishing a new order." In their view such changes are conditions precedent to elections.

But the establishment of a new order and the status of the army are among the subjects for the constituent assembly to be elected in March. Why should they only be debated and decided with the insurgents and not with the

compesinos, the labor unions, and the political parties? Why shouldn't the FDR have—only have—the representation in the assembly it can get by campaigning?

In July the United States said it would facilitate contacts and discussions on election issues. In September we sent a group to El Salvador and talked to all interested in talking to us, including the Movimiento Nacional Revolucionario (MNR), a member of the FDR. The representative of another member of the FDR has asked to see us in Washington this week, and we are receiving him on the same basis. If there are opposition elements who believe in a democratic solution, we will help them participate in the electoral process. But it would be wrong to assist those—in negotiations or otherwise—who are committed to the destruction of democracy.

Fourth, we must continue the pursuit of justice for the countries of the area. Lawlessness from both the left and right has been a major weakness in El Salvador. But the government is making progress in bringing it under control. Violent deaths other than in combat as reported each week by our Embassy in San Salvador are down by more than a half since last year. I do not want to give you the impression that our weekly figures are complete. But the trend is significant. Progress is unmistakable. I wonder whether the insurgents have made any contribution to that progress at all. For they claim that their violence is justified by a higher goal.

Fifth, our emphasis should be on collective action. Last week the Organization of American States voted 22 to 3 with 4 abstentions in support of free elections as a means to a political solution in El Salvador. In the same forum Secretary Haig has suggested that all countries in Central America should address the arms race that now threatens in Central America as a result of Nicaraguan imports of heavy weapons and the Cuban military adviser presence in Nicaragua. Should more serious threats emerge, it is in collective security that we should seek solutions.

Finally, we must communicate to Cuba that the costs of escalating its intervention in this region will be very high. We have readied measures to prevent another Mariel sealift should Cuba again seek to utilize the longings of its own citizens to harm this country. We are tightening the economic embargo. We are preparing creation of a radio devoted to Cuba news and beamed to the island so that Cubans can be better able to hold their government accountable for its actions. Our underlying message is clear. We will not accept, we do not believe the countries of the region will accept, that the future of the Caribbean Basin be manipulated from Havana. It must be determined by the countries themselves.

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Current Policy No. 376

CUBAN SUPPORT FOR TERRORISM AND INSURGENCY IN THE WESTERN HEMISPHERE

March 12, 1982

United States Department of State
Bureau of Public Affairs
Washington, D.C.

Following is a statement by Thomas O. Enders, Assistant Secretary for Inter-American Affairs, before the Subcommittee on Security and Terrorism of the Senate Committee on the Judiciary, March 12, 1982.

The Administration shares your concern about the growth of terrorism and violence in today's world. I welcome this opportunity to address the issue of Cuban terrorism and promotion of violent revolution in Latin America and the Caribbean.

For some 10 years following the death of Che Guevara on an Andean hillside, Cuba attempted to portray itself as a member of the international community not unlike others, carrying on state-to-state relations through embassies, and emphasizing trade and cultural contacts.

Cuba, however, never stopped glorifying violent revolution. During an entire generation, Cuba carefully nurtured agents and contacts with groups committed to violence, often providing ideological and military training to several groups in the same country. Then, in 1978, almost without notice, Castro began to implement a strategy of uniting the left in the countries of the hemisphere, with the purpose of using it as a tool for the violent overthrow of existing governments and the establishment of more Marxist-Leninist regimes in this hemisphere.

In 1978, Cuba helped unite three Sandinista factions, then committed itself militarily to the rebellion in Nicar-

agua. At first it was not apparent to many that a new Cuban strategy was in operation, for Nicaragua seemed like a unique case. But then Cuba began to try the same thing in El Salvador, in Guatemala, in Colombia; now it is repeating the pattern in Honduras. Even Costa Rica is now exposed to the threat of externally backed terrorism.

Cuban intervention is, of course, not the only source of terrorism in the hemisphere. Violent conflict in Latin America has many origins, including historical social and economic inequities which have generated frustrations. Especially in the Caribbean Basin, economic crisis has recently subjected fragile institutions to additional stresses, increasing their vulnerability to radicalism as well as violence.

Clearly, however, Cuba's readiness to foment violence to exploit such situations imposes serious obstacles to economic progress, democratic development, and self-determination. On December 14, I delivered to the Congress a special report on Cuban covert activities in key countries (see Special Report No. 90—"Cuba's Renewed Support for Violence in Latin America"). I would like to take this opportunity to review and update some specific cases of Cuban export of violence.

South America

The immediate danger, it is evident, is in Central America. But the pattern is present in South America as well. In Chile, Cuban training of MIR [Movement of the Revolutionary Left] guerrillas has increased substantially in the past 18 months. In January, the Chilean Communist Party leadership met in Havana. A handful of senior Cuban officials attended and pressed hard for unity of all opposition forces in Chile and intensification of all forms of struggle, including violence.

The most prominent South American case, however, is Colombia. In February 1980, Colombian M-19 terrorists seized the Dominican Embassy, holding 18 diplomats—

including the American, Mexican, and Venezuelan ambassadors and the Papal Nuncio—hostage for 61 days. As part of the negotiated settlement, the terrorists were flown to Cuba and given asylum. That summer, Cuban intelligence officers arranged a meeting among M-19 members with representatives of two other Colombian extremist organizations, the ELN [Army of National Liberation] and the FARC [Revolutionary Armed Forces of Colombia]. Full unification was not achieved but practical cooperation increased.

In November 1980, the M-19 sent 100-200 activists to Cuba for military training. This group was joined by M-19 terrorists already in Cuba, including Rosenberg Pabon Pabon, the leader of the Dominican Embassy takeover. The Colombians were trained by Cuban instructors in explosives, automatic weapons, hand-to-hand combat, communications, and rural guerrilla tactics. In February 1961, their Cuban training completed, these guerrillas infiltrated into Colombia by boat along the Pacific coast. The attempt of these urban terrorists at an armed uprising in the countryside failed. Pabon himself was captured. Cuba denied involvement in the arming and landing of the M-19 guerrillas but not in training them.

The clear evidence of Cuba's role led Colombia to suspend relations with Cuba on March 23. President Turbay commented in an August 13 *New York Times* interview:

> . . . when we found that Cuba, a country with which we had diplomatic relations, was using those relations to prepare a group of guerrillas, it was a kind of Pearl Harbor for us. It was like sending ministers to Washington at the same time you are about to bomb ships in Hawaii.

In an interview published in September 1981, Carlos Rafael Rodriguez, the Cuban Vice President, told the German news magazine *Der Spiegel*, "we did not deny" that we trained the M-19 guerrillas. This, he said, "holds true for the Salvadorans as well."

Neither the anger of President Turbay nor the M-19's failure has deterred Cuba. A new and sizeable group of M-19 guerrillas are today in Cuba receiving military training. We don't know that they will go back to Colombia to attempt new acts of terrorism, perhaps directed against the presidential elections this coming May, but such a pattern seems a reasonable speculation. The M-19 has already gone on record—in a declaration distributed to the media in January—condemning the elections and claiming that "civil resistance, popular combat, and armed warfare are the only roads left open to the people. . . ." This document, which was distributed under the signatures of the M-19's national directorate, pledged that the M-19 would oppose the elections "with all our force." This statement was repeated in late February when M-19 leaders rejected the government's latest amnesty proposal.

For the first time, we now also have detailed and reliable information linking Cuba to traffic in narcotics as well as arms. Since 1980, the Castro regime has been using a Colombian narcotics ring to funnel arms as well as funds to Colombian M-19 guerrillas. This narcotics ring was led by Jaime Guillot Lara, a Colombian drug trafficker now in custody in Mexico. He has admitted to working for Havana in purchasing arms for the M-19. We have information that Guillot traveled twice to Cuba since October 1981 and that on the second visit he received $700,000 from the Cuban Government to purchase arms for the M-19 guerrillas. Last October he played a principal role in transferring the arms he purchased from a ship to a Colombian plane hijacked by the M-19. In addition to arms, Guillot reportedly also transferred funds to the guerrillas through an employee of a Panamanian bank. He maintained contact with the Cuban diplomatic mission in Bogota, including the ambassador, until that mission was closed.

In return for Guillot's services, the Cubans facilitated the ring's trafficking by permitting mother ships carry-

ing marijuana to take sanctuary in Cuban waters while awaiting feeder boats from the Bahamas and Florida. According to a relative of Guillot, one such mother ship detained by Cuban authorities was released when Guillot protested to the Cuban ambassador in Bogota.

Guillot himself has also admitted that a future shipment of arms was to be sent to an unspecified group in Bolivia. These arms, according to Guillot, were to be supplied by an individual in Miami named Johnny. Johnny has been identified as Johnny Crump, a narcotics and arms trafficker now detained in Miami on narcotics charges.

We will continue to follow this case with extreme interest since it is the first firm information we have which implicates Cuba in narcotics trafficking. It also confirms through an independent source what we have suspected that despite Cuban denials, Cuba has provided arms to the Colombian M-19 guerrillas in addition to training them.

Central America

In Central America, the pattern we know well from Nicaragua and El Salvador can be seen now from Guatemala to Honduras and Costa Rica.

Guatemala exemplifies Cuba's systematic efforts to unify, assist, and advise Marxist-Leninist guerrillas. In the fall of 1980, the four major Guatemalan guerilla groups met in Managua to negotiate a unity agreement. Cuban and Sandinista officials attended the signing ceremony. We have obtained copies of the actual secret agreements which make clear that the four guerrilla groups consider themselves a revolutionary vanguard, and believe that Marxism-Leninism establishes the ideological parameters of the Guatemalan revolution. The secret agreements emphasize the importance of creating a national front, whose leadership would be approved by the self-proclaimed revolutionary vanguard, and the necessity of building international solidarity for the Guate-

malan revolution. They spell out the intention of the guerrillas to control decisive political and military power, and fundamental economic power, should the Guatemalan Government be overthrown.

Later last fall, the leadership of the four Guatemalan guerrilla organizations were called to Havana to work further on developing effective unity. In January 1982, they issued a public statement to the people of Guatemala and world opinion, calling for a broad national patriotic unity front. They laid out a deceptively moderate program for a new revolutionary government which would be nonaligned, guarantee freedom of expression, and respect the people's right to elect their own representatives. But the front, they made clear, would be under their leadership as the revolutionary vanguard.

The Marxist-Leninist parameter the Guatemalan revolution laid out in the secret accords are not mentioned in this declaration. Nor is the intention of the revolutionary vanguard to control decisive political and military power. It does not take a great deal of imagination to see why the class struggle and Marxist-Leninist ideas so prominent in secret agreements were deleted from the public declaration.

A similar process appears underway in Honduras. The Cubans currently are using Honduran leftists to transport arms and provide support to insurgents in El Salvador and Guatemala. Nevertheless, the Cubans are looking to the day when guerrilla warfare can be initiated in Honduras itself. Honduran authorities raided several guerrilla safehouses in late November 1981. Captured documents and declarations from detained guerrillas, including several Nicaraguans, revealed that the group was formed in Nicaragua at the instigation of high-level Sandinista leaders, its chief of operations resided in Managua, and members of the group had received military training in Nicaragua and Cuba. Among the captured documents were classroom notebooks from a 1-year training course held in Cuba in 1980. The documents also

revealed that one of the three guerrilla bases discovered was responsible for transporting arms and munitions from Esteli, Nicaragua, into Honduras. We can expect to see the familiar ritual repeated in an effort to bring down the new democratic government which was inaugurated barely 2 months ago.

In Costa Rica, terrorism had been virtually unknown until March 1981 when a vehicle bearing three U.S. Embassy guards was blown apart. In June three Costa Rican policemen were shot down. This year an investigation by the police uncovered at least 20 terrorist cells of the Central American Party of Revolutionary Workers, one of which was involved in an attempted kidnapping in January of the Salvadoran businessman Roberto Palomo. Also uncovered was a "people's prison" well supplied with arms, food, and other stores. According to documents found during the investigation, the purpose of the terrorists was to undermine Costa Rica's democratic institutions. Two Salvadorans and one Costa Rican were arrested; they told police they had been given extensive training in Nicaragua and false identity documents.

New Cuban approach

Cuba's covert strategy for exporting armed revolution and terrorism is more sophisticated than Cuban efforts in the 1960s. The new Cuban approach no longer centers support solely on armed *focos* but combines support for revolutionary groups with propaganda, youth training courses, scholarships, and bilateral economic/technical assistance. Despite some flexibility in tactics, the mainspring of Cuba's policy remains the development of strong paramilitary forces in target countries like Colombia to provide the muscle for revolutionary groups regardless of the path to power they choose.

And now Nicaragua is collaborating in the attempt to impose new Cuban-style regimes in Central America. Such regimes are so incompetent economically and so repressive of individual liberties that their citizens will

see their only hope in flight, often to the United States. The rapidly growing number of Indian refugees—now more than 12,000—who have fled Nicaragua to Honduras are just the most recent manifestation of the despair which moves people to abandon their communities for safety elsewhere.

We know the human tragedy of refugee movements. We also know the enormous social and economic burdens they place on the societies which receive them. We ourselves have seen the crime, the skyjackings, the huge welfare costs and social tensions the Mariel migration brought to the communities of this country. For small countries in Central America or even Mexico the consequences could be too much to accommodate. The pressures can easily destabilize the weak, creating the chaos that gives revolutionaries new opportunities. Whether or not it is part of the design to export revolution, it at least serves that purpose.

Cuba's investment of energy, money, and agents would not be possible without Soviet help. Soviet assistance, now totaling well over $3 billion a year, equivalent to a quarter of Cuba's GNP, enables Cuba to maintain the second largest and the best equipped military force in Latin America and to channel significant resources to insurgencies and terrorism abroad. Cuba's new offensive since 1978 has been accompanied by ever-increasing Soviet arms buildup in Cuba including MiG-23/Floggers and 66,000 tons of supplies in 1981 alone. Having such a sophisticated military establishment enhances Cuba's ability to foster and export revolution.

Conclusion

We must be clear about Cuba. It is a Soviet surrogate. But it is not simply a Soviet surrogate. Its support for subversion derives from its own deeply based ideological conviction. It is a fundamental tenet of the Cuban revolution.

The Cuban leadership today is made up largely of the veterans who 23 years ago came to power through violent revolution. They have developed "armed struggle" into an ideological precept and way of life. Promoting "armed struggle" is not just a tactic of foreign policy, it is what reassures them that they are still revolutionaries.

This deep-seated drive to recreate their own guerrilla experience elsewhere is strengthened by hopes of creating allies and keeping Washington's attention focused away from Havana. Hoping that the United States will be domestically and internationally hamstrung on El Salvador, Cuba seeks to compound our problems by creating new ones—for example, in Guatemala or Colombia. This drive, however, makes Cuba increasingly prone to rash decisions and tactical mistakes and more willing to sacrifice the lives and resources of foreign guerrilla groups in operations that may prove disastrous to the guerrillas but advantageous to Havana.

Make no mistake: The Castro regime has made a business of violent revolution. Our response is also clear. We will not accept, we do not believe the countries of the region will accept, that the future of the Caribbean Basin be manipulated from Havana. It must be determined by the countries themselves.

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. No. 82-1690-T

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

AFFIDAVIT OF DENNIS M. O'CONNELL

I, Dennis M. O'Connell, hereby depose and say:

1. My name is Dennis M. O'Connell. I reside at 7509 Sweetbriar Drive, College Park, Maryland 20740.

2. I am the Director of the Office of Foreign Assets Control ("FAC"), a position I have held since August 10, 1980.

3. In that capacity, I am familiar with the interpretation, administration, and enforcement of the Cuban Assets Control Regulations ("the Regulations").

4. On April 20, 1982, FAC published in the *Federal Register* an amendment to section 515.560 of the Regulations, dealing with travel-related transactions. The effective date of the amended regulation was May 15, 1982.

5. Since April 20, 1982, members of my staff and I have responded to more than 300 telephone calls concerning the amended regulation. In many cases, persons simply wanted to confirm that they could continue to visit close relatives in Cuba and were told that transactions relating to such travel were authorized by general license. In other cases, the proposed transactions required a specific license, or there appeared to be some question whether transactions were authorized by the general license. In such cases, persons were invited to submit additional information to FAC in writing.

6. Since April 20, 1982, FAC has made written responses to approximately 45 letters concerning travel-related transactions. In approximately 25 cases, FAC either responded that transactions for the purposes described in the letter were authorized by the general license or issued special licenses authorizing the proposed transactions. Specific licenses have been issued in several cases for humanitarian reasons such as visiting fiances or friends incarcerated in Cuba and also for purposes of participation in sports or cultural events in Cuba. In certain other cases, additional information has been requested as to the purposes of travel, and no final determinations were made.

7. FAC's determinations as to whether any individual or group falls under the general license for "professional research" and "similar activities" are made solely on the basis of information provided to FAC by persons or groups requesting such determinations. Examples of persons for whom travel-related transactions have been licensed or determined to fall within the general license are individual researchers working on advanced academic degrees, doctors traveling to perform medical research in Cuba, and individuals whose travel was for purposes of exchanging research and ideas at a conference in Cuba of North American Marxist philosophers.

8. In approximately eight cases, FAC has informed the inquiring group or individuals in writing that transactions for the purposes described in the letter to FAC were not licensed, either in whole or in part. Among these groups was the George School (letter of denial dated June 7, 1982, Exhibit A). The George School's proposed study tour does not fall within any of the categories in the general license, and the School did not demonstrate any compelling humanitarian reason or other ground, such as participation in a cultural or athletic event, that would justify issuance of a specific license.

9. By letter of June 11, 1982 (Exhibit B), the Center for Cuban Studies ("the Center") was informed that

FAC would not specifically license its proposed interdisciplinary tour and did not regard it as falling within the general license. As described in the Center's letter to FAC of June 1, 1982 (Exhibit C), the proposed tour had a total of 98 prospective participants, identified only by name and, in some cases, a few additional details. FAC specifically informed the Center in its June 11 letter that it would examine any additional information pertaining to prospective participants who might individually be eligible for travel-related transactions under section 515.560 of the Regulations. FAC has already received more than 35 letters which appear to come from individuals interested in participating in the Center's proposed study tour. Of these, more than 20 individual cases have been determined to involve "professional research" or "similar activities" within the scope of section 515.560, and notification to these individuals by telephone has been accomplished or attempted. In approximately 13 cases, additional information is being sought. As of this date, no final decision has been made that an individual who is clearly identifiable as a prospective participant in the Center's interdisciplinary study tour falls outside the general license.

10. FAC is in the process of obtaining final interagency approval for an amendment to section 515.560 which would explain and clarify the meaning of the general license for "professional research" and "similar activities," expand the meaning of "close relative," and set forth a specific licensing policy concerning certain professional meetings, seminars, and conferences to be held in Cuba. I anticipate that this amendment will be filed with the *Federal Register* no later than next week.

11. The revised licensing policy governing authorized travel-related transactions involving Cuba (section 515.560) is part of a comprehensive trade and financial embargo against Cuba maintained by the United States since July 8, 1963. Section 515.201 of the Cuban Assets Control Regulations, issued under the authority of sec-

tion 5(b) of the Trading With the Enemy Act, prohibits a nearly all-encompassing range of import, export, banking, and other financial transactions between any person subject to the jurisdiction of the United States and the Government of Cuba or any business enterprise, other entity or individual defined as a Cuban "national" by the Regulations.

12. Since their inception, the Regulations have prohibited any payment or expenditure involving a transaction with Cuba or a Cuban national, except as licensed by Treasury's Office of Foreign Assets Control. Travel-related transactions have not been singled out for special prohibition in the Regulations. Rather, travel-related transactions have been among the very limited areas where licensing exceptions have been made. Even as revised, the general license in section 515.560 still authorizes travel-related transactions involving certain categories of travelers. This is in the context of a program of financial sanctions against Cuba that contains only narrowly limited exceptions.

13. One of the other areas where licensing exceptions have been made is described in section 515.559, a statement of licensing policy governing licensed import and export transactions with Cuba by U.S. subsidiaries. This exception was made for foreign policy reasons in order to avoid difficulties with foreign nations where the affiliates are incorporated. Under local law, such subsidiaries generally are regarded as nationals of their host countries. Accordingly, when in 1975 the Organization of American States determined that each member state would be free to pursue its own trade policy vis-a-vis Cuba, the United States decided to license non-strategic trade with Cuba by U.S.-owned or controlled foreign firms in countries which favored or permitted trade with Cuba.

14. However, the licensing conditions set forth in section 515.559 underline the foreign policy basis for the licensing exception. The overall U.S. embargo policy toward Cuba remains unaltered. The foreign subsidiary

must conduct its business with Cuba independently of its U.S. parent. The U.S. parent firm and its officers or employees cannot be involved in a licensed transaction in any way. In other words, the licensed activities must be conducted strictly offshore as if by a non-U.S.-owned foreign firm. No direct dealing with Cuba by a U.S. parent firm or office or by any person in the U.S. is authorized. Further, under the revised general license in section 535.560, no U.S. national, whether employed by the parent firm or the subsidiary, is authorized to engage in travel-related transactions with Cuba. (Prior to the revision, a U.S. national employee of the subsidiary, but not the parent, was licensed to engage in transactions involving travel to Cuba on the subsidiary's business.)

15. Licensed subsidiary trade with Cuba is not a net earner of foreign exchange for Cuba. In 1980 and 1981, Cuba incurred substantial trade deficits with U.S. subsidiaries in foreign countries, amounting to more than $270 million. In 1981 (Jan.-Sept.), of total licensed trade amounting to $73,847,319, only $10,660,376 constituted imports by U.S. subsidiaries for which Cuba earned revenues. In 1980, of a total of $302,234,526, imports accounted for $88,043,683. Accordingly, this two-way trade, while it permits Cuba to obtain certain products from U.S. subsidiaries (particularly grains), imposes net costs on Cuba in terms of expenditures of its foreign exchange reserves and, unlike tourism, it does not generate excess hard currency earnings that can be diverted for purposes inimical to U.S. interests.

16. The decision to narrow the general license for travel-related transactions grew out of a recent Executive Branch review of options for tightening the Cuban embargo announced publicly earlier this year by the Assistant Secretary of State for Latin American Affairs. Various alternatives were, and remain, under consideration. However, choices for increased economic sanctions are somewhat limited by the current breadth of the embargo. Available options include complete or partial withdrawal

of licensed relaxations of the embargo such as the 1977 removal of the restrictions on travel-related transactions.

17. The new licensing limitations are intended to reduce Cuba's hard currency earnings, particularly U.S. dollar earnings, from planned expansion of its tourist industry. Cuba is expanding its tourist facilities and promoting tourism for purposes of earning dollar exchange.

/s/ Dennis M. O'Connell
DENNIS M. O'CONNELL

Dated: June 29, 1982

[SEAL]

OFFICE OF THE SECRETARY OF THE TREASURY
Washington, D.C. 20220

Jun. 7, 1982

FAC NO. 96157

Dear Mr. Bourns:

This is in response to your letters of April 23 and May 21, 1982, concerning a proposal by the George School to send a group of students and teachers on a study tour to Cuba.

This Office administers the Cuban Assets Control Regulations which prohibit all unlicensed economic transactions in which Cuba has an interest. Section 515.560 of the Regulations sets forth a licensing policy which authorizes certain transactions on behalf of certain persons who wish to travel to Cuba. Persons subject to U.S. jurisdiction who have close relatives in Cuba, who are professionally engaged journalists and researchers, or who are government officials traveling on official business may visit Cuba without obtaining a specific Treasury license. All other persons, as individuals or in groups, who wish to travel to Cuba must obtain a specific Treasury license in advance. According to current licensing policy, only those persons with compelling humanitarian reasons or who are to participate in a recognized sporting or cultural event may receive a specific Treasury license.

We have considered the request of the George School under the general license for professional research or similar activities, and also, as requested in your May 21 letter, under the specific licensing authorization for humanitarian reasons. General interest study tours, such as the George School's proposed trip to Cuba, do not constitute "professional research" within the meaning of the new regulations. In addition, although you describe the trip as having educational and religious purposes and

state that it will promote dialogue between American participants and Cubans, such generalized benefits are not sufficient to bring the trip within the specific licensing authority for exceptions based on humanitarian grounds. Approval of applications for licenses to engage in transactions involving travel for such general purposes would be inconsistent with the Regulations' purpose of depriving Cuba of foreign exchange, and such applications are, therefore, denied. We sincerely regret any inconvenience that this new control may cause, but trust you will understand its rationale.

I hope this information will be helpful to you.

Very truly yours,

/s/ Dennis M. O'Connell
DENNIS M. O'CONNELL
Director
Office of Foreign Assets Control

Mr. David L. Bourns
Headmaster
George School
Newton, Pennsylvania 18940

cc: Congressman James K. Coyne
Congressman Robert W. Edger
Congressman Frederick W. Richmond
Congressman Frank R. Wolf

[SEAL]

OFFICE OF THE SECRETARY OF THE TREASURY
Washington, D.C. 20220

Jun. 11, 1982

FAC NO. 96248

Dear Ms. Levinson:

This is in response to your letter of June 1, 1982, concerning the Center for Cuban Studies' proposed interdisciplinary study tour in Cuba from July 16-August 15, 1982.

As you are aware, this Office administers the Cuban Assets Control Regulations, which prohibit all unlicensed economic transactions in which Cuba has an interest. Section 515.560 of the Regulations sets forth a licensing policy which authorizes certain transactions on behalf of certain persons who wish to travel to Cuba. Persons subject to U.S. jurisdiction who are traveling to visit close relatives in Cuba, to engage in professional research in Cuba, for purposes of certain news-related or film-making activities in Cuba, or to engage in official business may visit Cuba without obtaining a specific Treasury license. All other persons who wish to travel to Cuba must obtain a specific Treasury license in advance. Under current licensing policy, only those persons with compelling humanitarian reasons or who are to participate in public performances or exhibitions may receive a specific Treasury license.

We have considered the proposed study tour of the Center for Cuban Studies under both the general and the specific license authorizations. General interest study tours, even when the prospective participants are professionals in various fields, do not constitute "engaging in professional research" or "gathering news, making news or documentary films" under section 515.560. Moreover, although prospective participants may regard the tour as

educational and informative, such generalized benefits are not sufficient to bring the trip within the specific licensing authority for exceptions based on humanitarian grounds. Finally, we have received no information suggesting that the second category for which specific licenses may be granted, that pertaining to public performances and public exhibitions, is involved here.

Based upon information presented in your June 1 letter, it is the determination of this Office that the proposed interdisciplinary study tour does not fall within any of the general license categories. It is also our determination that issuance of a specific license would not be appropriate in this case. Approval of travel-related transactions involving travel for such general purposes would be inconsistent with section 515.560's purpose of limiting Cuba's foreign exchange earnings.

As you were informed by Marilyn L. Muench, Chief of Licensing, in her conversation with you June 4, it is possible that certain of the prospective tour participants individually are eligible to engage in travel-related transactions under the general license or a specific license. We would be pleased to consider any additional information which may be presented to this Office pertaining to such individuals.

I regret any inconvenience this new control may cause and trust this information will be helpful to you.

Very truly yours,

/s/ Dennis M. O'Connell
DENNIS M. O'CONNELL
Director
Office of Foreign Assets Control

Ms. Sandra Levinson
Center for Cuban Studies
220 East 23rd St.
New York, New York 10010

CENTER FOR CUBAN STUDIES

June 1, 1982

Dennis M. O'Connell
Foreign Assets Control Office
1331 G Street N.W.
Washington, D.C. 20220

Dear Mr. O'Connell:

The Center for Cuban Studies has scheduled a summer interdisciplinary study tour to Cuba, to extend from July 16 to August 15. The tour is intended for professionals—academics, writers and journalists, legal and health personnel, and others—for whom the Spanish language and an in-depth knowledge of Cuba is important, even necessary, to their work.

The program is organized to teach both Cuban Spanish and various aspects of Cuban culture, society, history, economics and politics to those enrolled in the summer course. The participants will live and study together for one month in Havana. Morning classes will be given in Spanish at three levels—beginning, intermediate and advanced—with an emphasis on Cuban literature in the advanced classes. These classes will be given five days during the week, i.e., the weekdays. Afternoon seminars will be given in the area of specialization of each tour participant, together with field trips. For this purpose, the people who are part of this interdisciplinary study tour are being divided into seven areas of specialization. They are:

1. Cuban Culture—film, music, dance, art, literature
2. Cuban Education—day care and primary schools, secondary schools, university education, worker-peasant schools, and special education for handicapped and disabled
3. Cuban Science, Medicine, Health Care—physical and mental health care, preventive programs, en-

vironmental concerns, scientific and research advances

4. Cuban Economics and Politics—organization of the Cuban economy, political structure (both Party and administrative), mass organizations
5. Cuban Social Relations—women, race, housing, the elderly, the family
6. Cuban Law—all aspects of the criminal justice system, including the courts, the Constitution, prisons, delinquency
7. Cuban History and Foreign Policy for Latin Americanists

These afternoon seminars will be given by experts in the different fields and visits will be made to relevant institutions. For example, in the cultural field, seminars will be given by writers Roberto Fernández Retamar and Cintio Vitier, filmmakers Tomas Gutiérrez Alea and Santiago Alvarez, composers Leo Brouwer and Harold Gramatges, artists Raúl Martinez and Mariano Rodriguez, art critic Adelaida de Juan, actor-directors Mario Balmaseda and Raquel Revuelta. Field trips will be made to Cubanacan, the art school in Havana; the Cuban National Ballet, both in rehearsal and in performance; the Cuban Film Institute to see films and talk with directors and actors; the theater companies, again both in rehearsal and in performance, and to the Cuban Writers and Artists Union.

The Center received over 300 applications for this study tour and we have specifically selected those persons whom this tour and these classes would help in their work. We excluded those who seemed to be applying only as "tourists," because the Center is intended to aid persons in their desire to deepen their knowledge and understanding of Cuba, and not to serve as a travel agent for tourists.

I have attached a list of those persons selected for the study tour and the subject area in which each will take seminars and will, in many instances, offer seminars. We have asked each participant to give at least one seminar in his or her area of specialization, as a way of sharing knowledge with Cubans in the same fields. Unless otherwise noted, all those connected with a university are either professors or are completing postgraduate studies.

While we believe that this study tour falls within the limits defined for a general license in Section 515.560(ii) of the Cuban Assets Control Regulations, i.e., "persons who are traveling for the purpose of gathering news, making news or documentary films, engaging in professional research, or for similar activities," should the Office of Foreign Assets Control consider that this Center study does *not* fall under the General License requirements, I would like you to consider this letter a request for a Specific License.

Because of the time element, we are most concerned to obtain a ruling from you as quickly as possible. When I spoke with Mr. Boudreau, he assured me that our application would be dealt with as expeditiously as possible. I look forward to hearing from you soon, and will call to make an appointment to discuss the tour with you.

Thank you very much.

/s/ Sandra Levinson
SANDRA LEVINSON
Executive Director

Enclosure: List of Tour Participants

cc: To each tour participant
Michael Standard, Esq.

LIST OF PARTICIPANTS ACCORDING TO MAJOR SUBJECT AREA

I. CUBAN CULTURE

1. Robert Achs, filmmaker, New York City
2. Eugene Adams, media specialist
3. Basha Alperin, musician, New York City
4. Suzanne Avellano, Dept. of Art History, Univ. of Calif./Santa Barbara
5. Ronald Balistrieri, Dept. of Comparative Literature, UC/Riverside
6. Susan Fanshel, filmmaker, New York City
7. Dr. Bruce Franklin, Dept. of English, Rutgers Univ., New Jersey
8. Lisa Frigand, grantmaking in the arts field, New York City
9. Roger Larson, filmmaker, New York City
10. Barbara Leckie, graphic designer, Washington, D.C.
11. Jacqueline Leopold, film producer, New York City
12. Dr. Jack Mitchell, Dept. of English, San Bernardino Valley College, San Bernardino, Calif.
13. Dr. Patty Lee Parmalee, writer, New York City
14. Judith Sobel, film editor, New York City

II. CUBAN EDUCATION

1. Paul Baizerman, teacher, P.S. 309K, New York City
2. Beverly Bickel, teacher-counselor for high school dropouts, La Alianza Hispana, Boston, Mass.

3. Jan Calloway, teacher of English as a second language, New York City Public High School
4. Miriam Carter, instruction assistant for learning disabled children Roxbury Community College, Roxbury, Mass.
5. Jennifer Charnovsky, bilingual kindergarten teacher, Los Angeles Unified School District
6. Kimberly Gerould, teacher of English as a second language, Somerville, Mass.
7. Susan R. Greenberg, bilingual education counselor, instructor to disabled children, Charles River Academy, Cambridge, Mass.
8. Dr. Cecilia Pollack, director, Intersensory Learning Center, Great Neck, N.Y.
9. Janice Rank, instructor in reading, English, psychology, San Bernardino, Calif.
10. Stephen Shapiro, Principal and social studies teacher, Satellite Academy High School, New York City
11. Eddison Skerrit, teacher, New York City public schools
12. Cheryl Sonnichsen, Dept. of International Development Education, Stanford University, Stanford, Calif.
13. Brad Stocker, teacher of English as a second language, Miami-Dade Community College, Florida
14. David Tanzer, Dept. of Mathematics, Univ. of Penna. (student)
15. Cynthia Terrell, Germantown Friends School (student, daughter of Huntington Terrell)
16. David K. Truscello, teacher of English as a second language, Roxbury Community College, Roxbury, Mass.

17. Claudia Raslavsky, mathematician, author, Teachers College consultant, New York City
18. Sam Zaslavsky, professor at Baruch College, New York City (ret.)
19. Clarence E. Wilkins, Upper School, Abington Friends School, Jenkintown, PA

III. CUBAN SCIENCE, MEDICINE, HEALTH CARE

1. Michael Carter, senior programmer, Univ. of Calif./Davis, Dept. of Agronomy and Range Science
2. Mary Driscoll, Director, Occupational Therapy Dept., Kennedy Memorial Hospital for Children, Boston, MA
3. Patricia Ferrand, County Solid Waste Coordinator, New Jersey
4. Dr. John Gliedman, Dept. of Psychology and Philosophy of Science, Empire State College, New York City
5. Deborah Howland, R.N., Boston City Hospital
6. Brenda Loew, Director of Community Energy Planning, Amherst, MA
7. Judith Powell, R.N., New York Infirmary, Downtown Beekman Hospital, New York City
8. Dr. Charles Roberts, psychiatrist, private practice, New Jersey
9. Dr. Charles Rosenbloom, psychiatrist, Morningside Clinic and private practice, New York City
10. Dr. Charles Wright, obstetrician, private practice, Detroit, MI
11. Mrs. Charles Wright
12. Lindsay Gillies, Data Base Administrator, Univ. of Mass./Amherst

IV. CUBAN ECONOMICS AND POLITICS

1. Dr. Philip Brenner, Dept. of Political Science, American University, Washington, D.C.
2. Dr. Michael Kearney, Dept. of Anthropology, teacher of Third World socio-economic development, UC/Riverside
3. Rosemary Potter, Dept. of Political Science, University of Wisconsin/Milwaukee
4. Kathleen Pritchard, Dept. of Political Science, Univ. of Wis./M
5. Carlotta Renwick, Accountant, CES Publishing Corp., New York
6. Dr. David Schwartz, Dept. of Economics, Albright College, Albright, PA
7. Dr. Thomas A. Sears, Dept. of Economics, Univ. of San Francisco
8. Dr. Huntington Terrell, Dept. of Philosophy, Colgate University, Hamilton, New York
9. Millie Thayer, teacher of social studies, Grant High School, Portland, Oregon
10. Penny Rubinfine, Center for Cuban Studies, New York City

V. CUBAN SOCIAL RELATIONS

1. Arthur Bassin, architect and urban planner, University of California/Santa Barbara
2. Gilbert Cadena, Dept. of Sociology, Univ. of Calif./Riverside
3. Lucille Flato, City of San Francisco Social Services Department
4. James Flory, Dept. of Sociology, Iver Hills Community College, St. Paul, MN

5. Jennifer Green, Dept. of Anthropology, Stanford, Univ., CA
6. Michael Hirsch, Dept. of Sociology, Univ. of Wisconsin/Milwaukee
7. Monika Lynne Hudson, public administrator, Sacramento, CA
8. Carole Nagengast, Dept. of Anthropology, UC/Riverside
9. Arline Prigoff, Jane Addams College of Social Work, Chicago, a Coordinator, West Side Chicago Parental Stress Services
10. Laurie Puretz, UC/Santa Cruz (student)
11. Ernestine S. Roye, social worker, Spence-Chapin Services to Families and Children, New York City
12. Dr. James Otis Smith, Dept. of Sociology, Univ. of Wis./Milwaukee
13. Jane Wood, housing and tenants organizer, New York City
14. Dwayne Wyatt, UCLA Graduate School of Architecture and Urban Planning

VI. CUBAN LAW

1. Emily Bass, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, New York City
2. Haywood Burns, Esq., Director, Urban and Legal Studies, City College of New York
3. Maggie Cohn, National Jury Project Staff, Boston
4. Ethel Devine, court reporter, Brooklyn, N.Y.
5. Peter Joy, Esq., Clinical Legal Education Program, Case Western Reserve University School of Law, Cleveland

6. Emilie Nora Junge, Esq., U.S. Dept. of Labor
7. The Rev. David Patton, juvenile delinquency prevention program and social justice programs, California ,
8. Scott D. Pollack, legal assistant, New York City
9. Margarita Rosa, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, New York City

VII. CUBAN HISTORY AND FOREIGN POLICY FOR LATIN AMERICANISTS

1. June Belkin, Center for Latin American Studies, Univ. of Pittsburgh
2. William Bigelow, Social Studies, Jefferson High School, Portland, Oregon
3. Shirley Braus, Latin American Studies, California State Univ., Los Angeles
4. Dr. Betty Broadhurst, Latin American Studies, Colorado State Univ.
5. Edward P. Casey, Latin American History, Leeward Community College, Pearl City, Hawaii
6. Audrey Cole, administrative assistant, Senator Lowell Weicker
7. Jackie Dooley, Bibliographer/Editorial Assistant, Hispanic American Periodical Index, Latin American Center, UCLA
8. Jane Franklin, Center for Cuban Studies/ *Cuba in Focus*, NYC
9. Naomi Friedman, Center for Cuban Studies, New York City

10. Dr. William Gaboury, Dept. of History, Southern Oregon State College, Ashland, Oregon
11. Susan L. Gregory, *Latin American Perspectives*, UC/Riverside
12. Dr. Muriel McAvoy-Weissman, Latin American History, Fitchburg State College, Mass.
13. Dr. Peter Ranis, Dept. of Political Science and History, York College, CUNY, New York City
14. Dr. Margarita Samad-Matias, Director, Latin American Studies Program, City College, New York City
15. Dr. Rosalie Schwartz, Latin American History, San Diego State University

The following participants are journalists, but each of them would also fit into the category assigned for those in the cultural field:

1. Margot Adler, National Public Radio/Neiman Fellow (Harvard)
2. Barbara Leon, writer-reporter
3. Norma Smith, radio producer, Pacifica Radio, Calif.
4. Martha W. Tabor, writer-photographer, Washington, D.C.
5. Robert Weil

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 82-1690-T

RUTH WALD, MARIAN LOWE, ROSARIO MORALES, FRANCIS E. BRADLEY, REV. ALICE HAGEMAN, CUBA RESOURCE GROUP, ROBERT C. HOWARD, CENTER FOR CUBAN STUDIES, LINDA TURNER, PLAINTIFFS

vs.

DONALD REGAN, Secretary of the Treasury, JOHN M. WALKER, JR., Assistant Secretary of the Treasury, DENNIS M. O'CONNELL, Director, Office of Foreign Assets Control, GEORGE SHULTZ, Secretary of State, and ROLAND WILSON REAGAN, President of the United States, DEFENDANTS

PUERTO RICO OLYMPIC COMMITTEE and RAFAEL MORALES CUBANES, on his own behalf and behalf of the ASSOCIACION DE TURISTAS OLIMPICOS DE PUERTO RICO (ATOPRICO), and other Puerto Rico Sports Fans, INTERVENING PLAINTIFFS

PLAINTIFFS' OBJECTIONS TO MAGISTRATE COLLINGS' REPORT AND RECOMMENDATION ON MOTIONS FOR PRELIMINARY INJUNCTION

Pursuant to Rule 3(b) of the Rules For United States Magistrates for the United States District Court for the District of Massachusetts, plaintiffs object to Magistrate Collings' Report and Recommendation on Motions for Preliminary Injunction dated July 16, 1982 in that:

1. The Magistrate's Report on page 15 negates the 1978 amendment to the Passport Act, 22 U.S.C. 211(a) by holding it inapplicable where, as here, "the executive

has done nothing to 'designate' passports as being restricted for travel in Cuba." Report at p. 15. This position is at odds with the clear intent of Congress to prohibit the Executive from imposing area restrictions on American citizens' rights to travel abroad. Certainly when Congress stated, that the "freedom of travel" principle is sufficiently important that it should be a matter of law not dependent upon a particular Administration's policy," S. Rep. 95-842, 95th Cong. 2d Sess. at 14, it did not have in mind that this "important principle" could be negated merely by use of another statute to restrict travel. In enacting the 1978 amendment, Congress did not intend merely to shift the responsibility for regulating travel from the State Department to Treasury Department. Yet, it is precisely this conclusion that the Magistrate reaches in his one sentence discussion of this point. See also plaintiffs' brief, Point I.

2. The Magistrate incorrectly relies on *United States* v. *Fernandez-Pertierra*, 523 F. Supp. 1135 (S.D. Fla 1981) (Report at 17-18) as precedent for his holding that the President's actions here were authorized under the grandfather clause of Section 101(b) of Public Law 95-223. As pointed out in plaintiffs reply brief and at oral argument, the issue of the scope of the grandfather clause was never briefed or argued by either party in the *Fernandez-Pertierra* case and was dealt with only peripherally by Judge Kehoe.

3. The Magistrate's discussion of the legislative history of the International Economic Emergencies Powers Act (IEEPA) is faulty. Report pp. 18-21. While recognizing that only those authorities which were being exercised on July 1, 1977 were grandfathered, the Magistrate concludes that the power to regulate travel-related transactions to Cuba was being exercised as of that date. He reaches this conclusion by the twisted logic that the non-exercise of power is equivalent to the exercise of power.

The Magistrate's report distorts the undisputed facts. He states that "with respect to travel, since travel to

Cuba was regulated as of June 1, 1977, albeit in the form of allowing *most* travel, the President in 1982 had the power to change the extent of regulation of travel, . . . that is to regulate travel in a more restrictive matter." (emphasis added) Report at p. 19. This statement is simply wrong; the regulations as of June 1, 1977 (sic, July 1, 1977) permitted not "most" but *all* travel to Cuba. Prior to April 20, 1982, § 515.560 of the Cuban Asset Control Regulations stated that "all transactions ordinarily incident to travel to and from . . . and in Cuba" were authorized. The Magistrate has attempted to portray the situation as one in which travel to Cuba was being restricted as of July 1, 1977, with the only change being that now additional restrictions have been added.

In fact, as mentioned, above, all travel to Cuba was permitted as of July 1, 1977 with *no* restrictions. Now, for most United States citizens, travel to Cuba will not be just restricted, but banned with the threat of criminal penalties for those who violate the ban.

Thus, we have here not a mere change in the "particular" or "exact manner" in which power is being exercised as described by the Magistrate (Report at pp. 19, 21) but a substantial and quantitative change in the nature of the powers being exercised. The only way it can be said that the power to restrict travel was being exercised on July 1, 1977 is by reasoning that the non-exercise of the power is in fact its exercise. On page 20 the Magistrate says just that: "If the power is seen as the power to regulate travel-related transactions to Cuba, the fact that President Carter had just a month before, exercised his authority to amend the Cuban Assets Control Regulations to permit more travel to Cuba would be evidence that the power or authority to regulate travel to Cuba was already being exercised." First, as noted before, President Carter had exercised his authority not merely to permit "more" travel to Cuba but essentially to permit *all* travel to Cuba. By any common sense interpretation of that amendment, the President had deregulated travel

to Cuba. It makes a mockery of the English language to claim that a deregulation is in fact an exercise of the power to regulate.

Finally the Magistrate's reliance on the testimony of Leonard Santos to note that all powers conferred on the President by 5(b) of the Trading With The Enemy Act being exercised, as of July 1, 1977 is misplaced. It is not a relatively minor administrator whose opinion is important but the view of the subcommittee which considered it important to delete the section of the bill in the earlier draft which would have grandfathered in those powers which were conferred but not exercised. In fact, the Magistrate's entire discussion of the legislative history is fundamentally skewed by his improper reliance on administration witness rather than on congressmen's statements.

4. President Carter's amendment of the Cuban Assets Control Regulation in May 1980 to deal with the Mariel boatlift was not evidence that the additional powers not being exercised on July 1, 1977 could still be exercised by the President under the grandfather provision. Report at p. 22.

First, the Mariel regulations, as its position in the regulatory scheme clearly indicates, is an interpretation of 515.201 and not a new additional regulation. The Mariel regulations merely prohibited transactions connected with the transportation of a Cuban national to the United States, unless such national held a valid visa or was a returning resident of the United States. Presumably 515.201 always prohibited transaction incident to transporting Cuban nationals without a valid visa. All the Mariel regulations did was to clarify or interpret the general regulations.

Here we have not a mere interpretation but a dramatic change in the regulations. Until May 1982 all American citizens could travel to Cuba—now, most cannot.

Furthermore, even if the Mariel regulations were similar to those promulgated here, those regulations are not

indicative of congressional intent, but of the Executive's view. Unlike the situation presented to the court in *Zemel* v. *Rusk*, 381 U.S. 1, the Mariel regulations if relevant at all, do not present "an administrative practice sufficiently substantial and consistent to warrant the conclusion that Congress had implicitly approved such power." 381 U.S. at 12.

5. The Magistrate used an incorrect standard for interpreting IEEPA. His report ignores the need to read the exceptions to IEEPA contained in the grandfather clause narrowly due to (1) the remedial nature of the statute; (2) the constitutional right being restricted and (3) the criminal penalties involved. Instead of placing the burden on the government to justify its intrusion on the citizen's fundamental right to travel, the Magistrate suggests placing the burden on the plaintiffs to make "an extraordinarily strong showing to succeed." Report at p. 23.

6. The Magistrate's Report refers to the plaintiffs' failure to demonstrate a protest from someone in Congress that the President was exceeding his powers under the "grandfather" clause as a "strong indication that the President's actions here were authorized by Congress. Report at p. 23. In any event plaintiffs know of no rule of statutory construction which would hold that it is a "strong indication" or for that matter any indication of congressional intent that members of Congress do not protest Executive action taken years after a statute is enacted. In fact, neither plaintiffs nor defendants made any showing before the Magistrate as to the present opinions of congressmen on this issue.

7. Finally, plaintiffs object to the Magistrate's finding that plaintiffs have not been irreparably harmed. As demonstrated in plaintiffs' reply brief, plaintiffs do not have to show that they will never be able to travel to Cuba to show irreparable harm. Their right to travel to Cuba will be irreparably harmed if they are not permitted to

travel there now. See plaintiffs' brief, Point V and reply brief, Point IV.

8. As to the intervening plaintiffs, the Magistrate is in error in finding that the harm to the government is greater than the harm to intervenors. The harm to the government is only a short delay in the implementation of their policy, the harm to plaintiff intervenors is, as the Magistrate found, irreparable. Certainly the harm to the government is not irreparable.

In summary, the Magistrate has ignored the intent of Congress as reflected in the 1978 Amendment to the Passport Act and IEEPA, the fundamental nature of the right being asserted by plaintiffs and the irreparable harm to be suffered by plaintiffs.

In making these objections, plaintiffs have merely summarized their argument in response to the Magistrate's report. Plaintiffs arguments are more fully elaborated in the brief and reply brief which were before the Magistrate.

CONCLUSION

For the reasons set forth in these objections as well as in plaintiffs' briefs, the Magistrate's Report and Recommendation should be rejected and motions for preliminary injunction granted.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 82-1690-T

RUTH WALD, ET AL., PLAINTIFFS

v.

DONALD REGAN, ET AL., DEFENDANTS

PUERTO RICO OLYMPIC COMMITTEE, ET AL.,
INTERVENOR-PLAINTIFFS

DEFENDANTS' OBJECTIONS, AND RESPONSE TO PLAINTIFFS' OBJECTIONS, TO MAGISTRATE'S REPORT AND RECOMMENDATION

Defendants Donald Regan, et al., submit this memorandum pursuant to the Court's Rules for United States Magistrates, Rule 3(b), to present their objections to the Report and Recommendation ("Report") filed by Magistrate Robert B. Collings on July 16, 1982, regarding plaintiffs' and intervenor-plaintiffs' motions for a preliminary injunction.

Defendants also submit this memorandum in response to Plaintiffs' Objections to Magistrate Collings' Report and Recommendation ("Plaintiffs' Objections"), filed July 21, 1982. Defendants submitted their response to intervenor-plaintiffs' objections in Defendants' Memorandum in Opposition to Intervenor-Plaintiffs' Second Petition for a Temporary Restraining Order, also filed on July 21, 1982.

Defendants rely generally upon their already filed memoranda, which fully and adequately set forth the background issues and defendants' contentions in this case. *See generally,* Defendants' Memorandum In Support Of

Opposition To Plaintiffs' Motion For A Preliminary Injunction ("Defendants' PI Memorandum"), the Affidavits of Dennis O'Connell and Myles R.R. Frechette submitted therewith, and Defendants' Supplemental Memorandum In Support Of Opposition To Motion For Preliminary Injunction ("Defendants' Supplemental Memorandum"). This memorandum is submitted merely to clarify several points possibly obfuscated due to the expedited course of the proceedings.

I. *Defendants' Objections*

Magistrate Collings' Report confirms defendants' construction of the "grandfather clause" in the 1977 amendments to the Trading With The Enemy Act ("Act"), and generally upholds the renewed restrictions on travel-related transactions with Cuba. Defendants are satisfied that Magistrate Collings' Report fully, fairly and correctly addresses the merits.

The report, accordingly, should be approved, and plaintiffs' and intervenor-plaintiffs' motions for a preliminary injunction should be denied. They have failed to show a likelihood of success on the merits of their claims. To grant relief would contravene and harm the public interest by making a serious assault upon the foreign policy of the United States to carry out and tighten an embargo against a declared adversary of the national interest.

Defendants would, however, clarify two points. First, the express intent and direct effect of the amendments to 31 C.F.R. § 515.560 are to restrict Cuba's income from persons subject to United States jurisdiction by reimposing controls, under the total embargo contained in 31 C.F.R. § 515.201 over any economic transactions with Cuba, over travel-related transactions. The renewed regulations are not directly aimed at the right of international travel, despite their indirect, albeit significant, impact on travel to Cuba. The renewed regulation of travel transactions accordingly, must stand or fall as an element of the President's general wartime and national emergency au-

thority under the Act over all species of economic relations with Cuba.

The renewed controls, in short, just are not a attack on the right to travel itself, despite plaintiffs' attempts to convince the Court otherwise. Defendants object, accordingly, to those portions of the Magistrate's Report that might be construed as viewing the renewed restrictions as directed at travel itself.

Second, defendants' position regarding the "grandfather clause" has two components possibly conflated in the Magistrate's Report. Defendants primarily contend that the grandfather clause permits the President to exercise all § 5(b) powers regarding those countries subject to a declared state national emergency on July 1, 1977, because the exercise of the President's power to declare an embargo was what Congress intended to grandfather. This construction of the clause is supported by the promulgation of the Mariel regulations, by their judicial enforcement in *Fernandez-Pertierra* over the same contentions now raised by plaintiffs, and most importantly, by a full and fair reading of the entire legislative history.

Defendants further contend, secondarily, that even if plaintiffs' view of the grandfather clause is correct, the President was exercising authority over travel-related transactions with Cuba on July 1, 1977. That exercise existed by virtue of the total prohibition of any economic transactions with Cuba, 31 C.F.R. § 515.201, as implemented by grant of a license for travel transactions with Cuba in § 515.560 (before 1982 amendments).

Defendants also object to Magistrate Collings' finding that the intervenor-plaintiffs have shown irreparable harm. The reasons for this objection are stated in Defendant's Memorandum In Opposition To Intervenor-Plaintiffs' Second Petition For A Temporary Restraining Order.

Defendants submit, accordingly, that subject to the above-stated qualifications, the Magistrate's Report should be fully approved and the motions for a preliminary injunction denied.

II. *Defendants' Response to Plaintiffs' Objections*

Plaintiffs' objections merely repeat arguments already contained in their previous memoranda and fully addressed by defendants and the Magistrate. To the extent that any further response is necessary, defendants make the following points.

First, regarding the Passport Act, it is inapplicable here. *See* Defendants' PI Memorandum at 16-18, and discussion *supra* at 3-4, regarding indirect effects on the right to travel. The legislative history of the 1977 amendments to the Trading With The Enemy Act shows that Congress knew that the Act included authority over travel-related transactions, *see* Defendants' PI Memorandum at 17, yet Congress took no steps to remove that authority. Indeed, it retained such authority in IEEPA while expressly restricting IEEPA authority over other constitutionally protected interests. *Id.* Congress, in amending the Passport Act in 1978 to limit the President's authority to restrict the use of passports, clearly should not be found *sub silentio* to have made an amendment to the Trading With The Enemy Act that it had rejected in 1977.

Second, the *Fernandez-Pertierra* case stands as a clear indication of the meaning of the language of the grandfather clause standing alone, and was therefore properly relied upon by the Magistrate. Plaintiffs claim that the language of itself proves their case; *Fernandez-Pertierra* refutes that claim. The legislative history, as Magistrate Collings found, only strengthens the court's Conclusion in *Fernandez-Pertierra*. Also, Magistrate Collings properly relied on the full legislative history, including the testimony of Leonard Santos, the Administration's spokesman clearly most familiar with the technicalities under review by Congress and here by the Court.

Third, plaintiffs fail to distinguish the Mariel regulations. Plaintiffs argue that the Mariel regulations merely "interpret" the general embargo of 31 C.F.R. § 515.201, and thus do not involve any new exercise of power. That

argument, however, is just what defendants say is true of the regulations under attack here. *See* discussion *supra* at 3-4.

Finally, plaintiffs mistake the nature of the congressional delegation of authority here by analogizing the President's authority to his authority under the Passport Act. Under the Passport Act, which was involved in *Zemel*, *Agee*, and all of the right to travel cases so heavily relied upon by plaintiffs, the President was asserting authority directly over the right to travel based merely upon a congressional delegation of power to issue passports in his discretion. The Supreme Court in those cases, accordingly, faced the question of where to place limits upon the extent of Executive power under a standardless delegation. The question was the extent of the delegation made, not what powers could be delegated.

Here, by contrast, § 5(b) of the Act expressly authorizes the President to "prohibit", "void," etc., economic transactions with countries such as Cuba that have been declared subject to an embargo. That authority is strong, but there is no doubt of its existence. Travel-related transactions unquestionably are a species of economic transactions, just as are the purchase of books, *see* discussion in Defendants' PI Memorandum at 19, and are no less covered by the Act for their constitutional coloration.

In sum, none of defendants' objections have merit. The Magistrate's Report should be approved upon the Court's *de novo* review of matters raised by the objections.

By their attorney,

WILLIAM F. WELD
United States Attorney

By: /s/ RA Child
RALPH A. CHILD
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I, Ralph A. Child, hereby certify that on this 26th day of July, 1982, I served the foregoing on the parties by mail addressed to Harvey B. Natchman, Leonard B. Boudin, Charles S. Sims, and Dorian Bowman.

/s/ RA Child
RALPH A. CHILD
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 82-1690-T

RUTH WALD, MARIAN LOWE, ROSARIO MORALES, FRANCIS E. BRADLEY, REV. ALICE HAGEMAN, CUBA RESOURCES GROUP, ROBERT C. HOWARD, CENTER FOR CUBAN STUDIES, LINDA TURNER, PLAINTIFF

v.

DONALD REGAN, Secretary of the Treasury, JOHN M. WALKER, JR., Assistant Secretary of the Treasury, DENNIS M. O'CONNELL, Director, Office of Foreign Assets Control, GEORGE SHULTZ, Secretary of State, and RONALD WILSON REAGAN, President of the United States, DEFENDANTS

PUERTO RICO OLYMPIC COMMITTEE and RAFAEL NORALES CUBANES, on his own behalf and behalf of the Asociacion de Turistas Olimpicos de Puerto Rico (Atoprico), and other Puerto Rico Sports Fans, INTERVENING PLAINTIFFS

NOTICE OF APPEAL

NOTICE is hereby given that plaintiffs, Ruth Wald, Marian Lowe, Rosario Morales, Francis E. Bradley, Rev. Alice Hageman, Cuba Resources Group, Robert C. Howard, Center for Cuban Studies and Linda Turner hereby appeal to the United States Court of Appeals for the First Circuit from the Order denying plaintiffs' motion for a preliminary injunction entered in this action on the 22nd day of July, 1982.

DATED: New York, New York
August 17, 1982

/s/ Leonard B. Boudin
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UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 83-1695

RUTH WALD, ET AL., PLAINTIFFS, APPELLANTS

v.

DONALD REGAN, ET AL., DEFENDANTS, APPELLEES

DECLARATION OF JOHN M. WALKER, JR.

John M. Walker, Jr., under penalty of perjury, declares and says as follows:

1. I am, and since August 3, 1981, have been, the Assistant Secretary (Enforcement & Operations) of the United States Department of the Treasury. One of my responsibilities is to supervise Treasury's Office of Foreign Assets Control.

2. This declaration is based upon information known and available to me in the performance of my official duties. I am making it to explain how this court's decision will injure the enforcement interests of the United States Government with respect to embargoes it has in place under Section 5(b) of the Trading With the Enemy Act ("TWEA"), 50 U.S.C. App. Section 5(b), to deny foreign exchange to Cuba, Vietnam, Kampuchea and North Korea.

3. Since 1963, pursuant to TWEA the United States Government has imposed a comprehensive embargo on trade and financial transactions between Cuba or Cuban nationals and persons subject to the jurisdiction of the United States. (Treasury issued the Cuban Assets Control Regulations (the "Regulations"), 31 C.F.R. Part 515, on July 8, 1963.) A major purpose of the embargo, which

includes a freezing of Cuban assets in the United States, has been to deny Cuba hard currency which it could use for purposes inimical to the interests of the United States. From the outset of the embargo, the Regulations restricted transactions relating to travel to Cuba by persons subject to the jurisdiction of the United States, just as they restricted other transactions. In 1977, Treasury issued a general license permitting certain travel-related transactions. This license, which was expressly subject to modification or revocation at any time, constituted a limited exception to the comprehensive embargo.

4. In late 1981, the United States Government became concerned that the Government of Cuba was increasing its support of insurgents in Central America and at the same time was initiating a program to increase its foreign exchange earnings by expansion of its tourist industry and increasing its appeal to tourists from the United States. The Government of Cuba demonstrated that it intended to regain the status it once enjoyed of having the highest tourist receipts of all Caribbean countries. According to State Department estimates, were Cuba to be able to return tourism to its 1958 position of prominence as a source of foreign exchange, within a few years it would earn, on a gross basis, $250-300 million each year. Net hard currency income would amount to $190-225 million per year, or 20% of Cuba's annual hard currency income, thereby making the business of catering to tourists, particularly U.S. tourists, a major source of hard currency support for the Cuban economy.

5. As set out in more detail in the Declaration of Assistant Secretary of State Thomas O. Enders dated June 3, 1983, the United States Government determined to forestall this development by restricting transactions relating to tourist travel to Cuba. It did not seek to prohibit transactions relating to all travel to Cuba by persons subject to the jurisdiction of the United States, but only transactions relating to those types of travel—tourist and business—which would be most likely to bene-

fit Cuba financially. No changes in the regulations permitting transactions concerning official, family, press and certain types of academic travel were contemplated, while transactions involving travel for special humanitarian purposes or for the purpose of attending public exhibitions or performances were to be permitted on a specific license basis.

6. Before these steps were taken, I, of course, had to be satisfied that Treasury had authority under law to reduce the scope of the license authorizing travel-related transactions with Cuba. I was well aware that TWEA had been amended on December 28, 1977, to authorize new embargoes only in time of war, and not in peacetime emergencies as it had done before. Act of December 28, 1977, Pub. L. No. 95-223. I was also well aware that the country embargoes in place under TWEA as of July 1, 1977, were "grandfathered" by Section 101(b) of Public Law 95-223. On July 1, 1977, the United States Government had in place comprehensive trade and financial embargoes with respect to transactions with Cuba, Vietnam, Kampuchea and North Korea pursuant to TWEA authority. At the same time, pursuant to that authority it was blocking assets of the People's Republic of China and certain European countries.

7. I understood that, since the 1977 amendment of TWEA, Treasury consistently had read the grandfathering provision as permitting adjustments—both liberalizing and tightening—in the controls concerning the four countries which were subject to full trade and financial embargoes. Not only did the plain language of Section 101(b) of Public Law 95-223 clearly permit such adjustments, but key parts of the legislative history manifested a Congressional intent that the President was to have adequate flexibility to continue to exercise controls under TWEA with respect to the four embargoed countries. For example, the Report of the House Committee on International Relations, which accompanied the bill for amending TWEA and enacting the International Emer-

gency Economic Powers Act ("IEEPA"), 50 U.S.C. Section 1701 *et seq.*, states as follows:

> Certain *current uses of the authorities* affected by H.R. 7738 are controversial—*particularly the total U.S. trade embargoes of Cuba and Vietnam.* The committee considered carefully whether to revise, or encourage the President to revise, such existing uses of international economic transaction controls, and thereby the policies they reflect, in this legislation. The committee decided that to revise current uses, and to improve policies and procedures that will govern future uses, in a single bill would be difficult and divisive. *Committee members concluded that improved procedures for future use of emergency international economic powers should take precedence over changing existing uses.* By "grandfathering" existing uses of these powers, without either endorsing or disclaiming them, H.R. 7738 adheres to the committee's decision to try to assure improved future uses rather than remedy possible past abuses. (H.R. Rep. No. 459, 95th Cong., 1st Sess. 9-10 (1977). Emphasis added.)

Thus, the Committee appeared to have intended to "grandfather" not specific regulations relating to Cuba, but rather what it described as the "total trade embargo" of Cuba. This same general intention is manifested elsewhere in the same report:

> . . . exercises of emergency powers under section 5(b) which are currently in progress should be *generally exempted* from the provisions of the new statute. . . . Current uses of section 5(b) should be considered individually, on their merits, in separate legislation. The purpose of the new statute should be to set forth authorities and procedures for future emergency situations. (H.R. Rep. No. 459, 95th Cong., 1st Sess. 11 (1977). Emphasis added.)

8. After the 1977 amendment of TWEA, Treasury's administration of the embargoes on the four countries was based on the premise that the grandfathering provision permitted flexibility in the issuance of new regulations. For example:

—In March 1979, Treasury amended the Regulations (Section 515.205), as well as the Foreign Assets Control Regulations (31 C.F.R. Section 500.205) and the Foreign Funds Control Regulations (31 C.F.R. Section 520.05), to impose a new requirement that certain blocked assets be held in interest-bearing accounts.

—Also in March 1979, pursuant to a request by the Government of the People's Republic of China after it had initialed a claims settlement agreement with the United States Government, Treasury issued a regulation which provided that, except upon certain conditions, no specific license would be issued to authorize the transfer of blocked property, pursuant to State law, to the abandoned property agency of a State (31 C.F.R. Sections 500.561 and 515.554).

—In May 1980, Treasury issued a new regulation, Section 515.415, which made clear that a variety of transactions related to transportation of Cuban nationals not holding proper U.S. visas was prohibited under Section 515.201 of the Regulations. The regulation was issued in response to the Cuban Government's arranging for large numbers of Cubans, including criminals and mentally ill persons, to come to the United States by means of the Mariel flotilla.

Neither the Congress nor members of the public challenged Treasury's authority to issue any of these new regulations pursuant to the "grandfathering" provision.

9. Indeed, the General Accounting Office (GAO), an arm of the Congress, also indicated that the embargo authority should be interpreted in a dynamic and flexible manner. In November 1980, the GAO issued a report, GAO/ID-81-01 (November 14, 1980), which, among other things, noted with approval Treasury's 1979 regulation

requiring, for the first time, private holders of blocked assets to pay interest on the assets. The report also recommended that Treasury go further and institute new procedures to verify the location of blocked assets. Such procedures would include taking a census of blocked assets and imposing new recordkeeping requirements on holders of blocked assets. To do this Treasury would have to issue new regulations. (Treasury, to implement this recommendation, is in the process of issuing new regulations, which are now at the Office of Management and Budget for clearance.) Nowhere in the GAO report is there any suggestion that Treasury lacks the authority under TWEA to impose the interest requirement or to implement the recommended new procedures. GAO obviously was of the view that Treasury has the necessary authority under TWEA.

10. It was my view that there are a number of significant, practical reasons why Congress intended existing embargo programs not to be disturbed and the authority of the President in administering those programs not to be impaired. Any embargo must be refined and adjusted from time to time for various reasons, including efforts of the embargoed country or those who would trade with that country to exploit weaknesses and loopholes in embargo restrictions. If invocation of IEEPA authority were required for every modification of "grandfathered" embargo program, the administration of that program, partly under TWEA authority and partly under IEEPA authority and procedures, would be most awkward. Similarly, if the President were in negotiations with a country against which a TWEA embargo had been imposed and wished to relax one type of sanction and impose another against that country (either simultaneously or later, upon the nonfulfillment of certain conditions), it would be anomalous for him to be required to declare a new national emergency before he could make the changes in the sanctions. Indeed, the situation might not support the declaration of a new national emergency and hence no

changes might be possible. Even more anomalous would be a requirement that a new national emergency be declared with respect to a country with which the United States had concluded a claims settlement agreement and for which the United States had to promulgate a new regulation forcing a holder of blocked properties to allow them to be transferred to the other country (as the United States did in the Iranian settlement).

11. I also recognized the significant foreign policy implications which the United States Government must consider before it could declare a new national emergency pursuant to IEEPA with respect to Cuba or any of the embargoed countries. (These had been recognized by the Executive Branch and by members of Congress at the time the "grandfathering" issue was being considered in 1977. In Congressional hearings, Treasury officials explained the foreign policy reasons why the Executive Branch sought to avoid having to declare a national emergency, and, in response, the Subcommittee Chairman said that he would not argue that the President should be expected to declare, for the first time, a national emergency with respect to Cuba.) *Emergency Controls on International Economic Transactions: Hearings on H.R. 1560 and H.R. 2382 Before the Subcommittee on International Economic Policy and Trade of the House Committee on International Relations*, 95th Cong., 1st Sess. 188-191 (1977).

12. In considering the reinstitution of controls on some travel-related transactions in 1982, I also concluded that the prohibitions on certain types of transactions relating to business and tourist travel in order to deny Cuba foreign exchange had the same fundamental character as other prohibitions on financial transactions which are the very heart of Treasury's general program of barring transactions with Cuba or nationals thereof. These basic prohibitions covering both travel-related and nontravel-related transactions are set forth in Section 515.201 of the Regulations, which has been in continuous effect since 1963. (A copy of Section 515.201 is attached hereto.)

13. In fact, travel-related transactions were being carefully controlled under the Regulations as of July 1, 1977. On March 29, 1977, Treasury issued a general, but by no means unlimited, license (Section 515.560 of Regulations) authorizing transactions "ordinarily incident" to travel to, from, and in Cuba. On May 18, 1977, in part in response to inquiries from travelers and the travel industry as to which types of transactions were authorized (*e.g.*, chartering a vessel and arranging hotel accommodations), Treasury amended the general license. The amendment made clear that a variety of transactions involving travel (*e.g.*, arranging charter tours, processing credit cards and selling passage on a foreign carrier) fell within the Section 515.201 prohibition, but were licensed pursuant to Section 515.560. Had Section 515.560, as originally published, been intended to be a simple revocation of all controls on travel-related transactions, the detail and certain qualifications provided in the May 18, 1977 amendment would have been unnecessary. The fact that travel-related transactions were covered by the Regulations was made clear to the Subcommittee on International Economic Policy and Trade of the House International Relations Committee when it considered the grandfathering issue. In testimony on June 13, 1977, concerning that issue, Mr. Leonard Santos, a Treasury expert, specifically stated that TWEA authorities involving travel to Cuba were being exercised at that time.

> Mr. Majak. . . . But there are other authorities being exercised with regard to Cuba and Vietnam.
>
> Mr. Findley. Would you list those?
>
> Mr. Santos. They are essentially transaction control regulations to the extent that the transaction involves a transfer of assets, it would involve the travel to those countries and the exchange of goods. Those are the powers being exercised under 5(b), and this is considerably more extensive than the freezing of a bank account or a piece of property. Emergency Control Hearings, *supra*, at 215.

14. I thought it very significant that, in order to cut back on the license authorizing transactions related to tourist and business travel to Cuba in 1982, the step that was required was not a new prohibition in the Regulations, but rather a mere modification of the general license issued in March 1977 for such transactions. In the Iranian assets context the previous year, the Supreme Court in *Dames & Moore* v. *Regan*, 453 U.S. 654, 673 (1981), held that the President had authority to withdraw a general license for attachments. The Supreme Court's holding placed great importance on the fact that, by its terms, the general license was expressly subject to amendment, modification or revocation at any time. On July 1, 1977, the general license for transactions related to travel to Cuba was expressly subject to those identical conditions.

15. Thus, restrictions on travel-related transactions were always an integral part of the United States' embargo on Cuba, and, in fact, on July 1, 1977, those transactions were being regulated and subjected to a number of restrictions, by means of a general license. The April 20, 1982 modification of the general license was neither an entirely new form of embargo nor even an expansion of an existing embargo.

16. For the reasons set out above, in which the staff of the Office of Foreign Assets Control fully concurred, in March 1982, I viewed as entirely appropriate and legal the modification of the provisions of the general license concerning transactions related to tourist and business travel to Cuba. This modification served to cut Cuba off from a source of a significant amount of foreign exchange while it enabled official, family, press and certain types of academic travel, as well as travel fully paid for by persons not subject to the jurisdiction of the United States, to continue.

17. I am extremely concerned that the Court's decision will seriously impair this Administration's ability to implement its policy with respect to Cuba. By its narrow

interpretation of the grandfathering provision, the decision will also leave in doubt Treasury's ability to deal with the other three countries which are subject to embargoes under Section 5(b) of TWEA and with transactions other than those relating to travel. This could prevent the United States Government from responding adequately to positive or negative developments in the United States' relations with those four countries. The decision could be used as a basis for disputing the validity of certain other changes in the assets control regulations —not related to travel—made since 1977, as well as changes that may be made in the future in those regulations.

18. While not everyone in the Congress has agreed with the Administration's policy in modifying the general license in 1982, at no time has anyone in Congress raised a question—by letter, in hearings or by other means—as to Treasury's authority to do so.

19. Congress did not intend to affect existing embargoes against Cuba, Vietnam, Laos and Kampuchea in "any way," according to a statement on the floor of the House by Chairman Bingham of the House Subcommittee (the Subcommittee on International Economic Policy and Trade of the House Committee on International Relations) which prepared the TWEA grandfathering provision. 123 Cong. Rec. 12559 (1977). Similarly, when he signed H.R. 7738 into law on December 28, 1977, President Carter indicated that his understanding was the same as that of Chairman Bingham:

> Enactment of the bill will not affect embargoes now being exercised against certain countries . . . (Statement on signing H.R. 7738, Public Papers of the President, 1977, Book II, p. 2186.)

This Court's decision, contrary to the intent of Congress and the understanding of the Executive, does affect existing embargoes implemented under TWEA authority in a most significant and, indeed, harmful way.

I declare, under penalty of perjury, that the foregoing is true to the best of my knowledge and belief.

/s/ John M. Walker, Jr.
JOHN M. WALKER, JR.
Assistant Secretary
(Enforcement & Operations)

Executed on June 3, 1983
Washington, D.C.

SUBPART B—PROHIBITIONS

§ 515.201 Transactions involving designated foreign countries or their nationals; effective date.

(a) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if either such transactions are by, or on behalf of, or pursuant to the direction of a foreign country designated under this part, or any national thereof, or such transactions involve property in which a foreign country designated under this part, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All transfers of credit and all payments between, by, through, or to any banking institution or banking institutions wheresoever located, with respect to any property subject to the jurisdiction of the United States or by any person (including a banking institution) subject to the jurisdiction of the United States;

(2) All transactions in foreign exchange by any person within the United States; and

(3) The exportation or withdrawal from the United States of gold or silver coin or bullion, currency or securities, or the earmarking of any such propery, by any person within the United States.

(b) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if such transactions involve property in which any foreign country designated under this part, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All dealings in, including, without limitation, transfers, withdrawals, or exportations of, any property or evidences of indebtedness or evidences of ownership of property by any person subject to the jurisdiction of the United States; and

(2) All transfers outside the United States with regard to any property or property interest subject to the jurisdiction of the United States.

(c) Any transaction for the purpose or which has the effect of evading or avoiding any of the prohibitions set forth in paragraph (a) or (b) of this section is hereby prohibited.

(d) For the purposes of this part, the term "foreign country designated under this part" and the term "designated foreign country" mean Cuba and the term "effective date" and the term "effective date of this section" mean with respect to Cuba, or any national thereof, 12:01 a.m., e.s.t., July 8, 1963.

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 83-1695

RUTH WALD, ET AL., PLAINTIFFS, APPELLANTS

v.

DONALD REGAN, ET AL., DEFENDANT, APPELLEES

DECLARATION OF THOMAS O. ENDERS

Thomas O. Enders, under penalty of perjury, declares and says as follows:

1. I am a career Foreign Service Officer in the Foreign Service of the United States. In my present assignment I am the Assistant Secretary of State for Inter-American Affairs in the Department of State. I have held that office since June 23, 1981.

2. As Assistant Secretary of State for Inter-American Affairs, I am familiar with United States policy in Latin America and the Caribbean. I am responsible for implementation of U.S. foreign policy in the region, under the direction of the President and the Secretary of State.

3. I make this declaration, which is based upon information known and made available to me in the performance of my official duties, in order to explain the foreign policy interests which continue to be involved and to show the injury to our foreign policy interests that would result if an injunction against enforcement of certain regulations concerning criteria for licensing transactions related to travel to Cuba were to be upheld.

4. I have read the Declaration of Myles R.R. Frechette, filed with United States District Court for the District of

Massachusetts in 1982, in connection with Civil Action File No. 182-1690-T (see JA 102-104). The Declaration of Mr. Frechette, who was then Director of the Office of Cuban Affairs in the Department of State's Bureau of Inter-American Affairs, set forth the reasons why the regulations at issue were adopted to serve important foreign policy interests of the United States with respect to Cuba. I endorse the statements made by Mr. Frechette in that Declaration and believe that they continue to represent an accurate statement of United States policy and the facts underlying that policy.

5. It is the longstanding policy of the United States and that of President Reagan to promote the development of democratic government in Latin America and to contribute to the economic and social well-being of the region through the encouragement of free institutions. It has been and remains a principal objective of the Government of Cuba to stimulate and support the overthrow of non-Communist governments in the Western Hemisphere and to replace them with Marxist-Leninist regimes acceptable to Cuba. Cuban success would be contrary to the national interests of the United States. In view of the intensity of the conflict which these Cuban efforts have helped to generate in Central America and elsewhere in the region, this Administration has maintained and strengthened measures to suspend trade with Cuba which are continued pursuant to the Resolution adopted by the Sixteenth Meeting of Consultation of Ministers of Foreign Affairs, acting under the Inter-American Treaty of Reciprocal Assistance (ITAR), the "Rio Treaty", on July 29, 1975.

6. Since 1960 it has been a major objective of United States foreign policy with respect to Cuba to deny the Cuban Government the financial means for conducting a foreign policy of violence against friendly third countries, dedicated to undermining the security interests of the United States. For that reason the United States Government adopted extensive restrictions on trade with Cuba,

including transactions related to travel, which was consistent with Resolution VIII of the Eighth Meeting of Consultation of Ministers of Foreign Affairs acting under the ITAR, on January 31, 1962, and with Resolution I of the Ninth Meeting of Consultation of Ministers of Foreign Affairs, July 22, 1964, basing its measures on the authority of the Trading with the Enemy Act. The criteria for licensing transactions related to travel to Cuba then adopted were subsequently relaxed in 1977 as part of efforts by the Carter Administration to improve bilateral relations with Cuba. Travel, however, remained within the scope of general and specific licensing authorities exercised under the Trading with the Enemy Act. The criteria for issuing licenses for transactions related to travel were tightened again in 1982 because the conduct of Cuba had resulted in a deterioration, rather than an improvement, in bilateral relations, and because Cuba had vigorously renewed efforts to overthrow non-Communist governments of the region by the use of subversion and violence.

7. The objective of the tightening in May 1982 of licensing criteria on transactions related to tourist and general business travel to Cuba was not to prevent travel. Rather its purpose was to deny Cuba the convertible currency income which would otherwise could have been generated by development of tourism from the U.S. on a commercial scale, income which would then have become available for the advancement of Cuban policy contrary to the national interests of the United States.

8. The development of the tourist industry in Cuba was undergoing major expansion during 1981 and early 1982, and was intended to provide Cuba with a growing and important revenue flow which could in a relatively short period of time have become the second most important source of convertible currency for Cuba. The U.S. Government had become aware of Cuban plans greatly to expand tourism from this country. The Director for U.S. Affairs of the Cuban National and Inter-

national Tourist Enterprise, (CUBATUR) had requested visas for December, 1981 and January, 1982 visits to New York and Miami to meet 30-40 American travel agents for the purpose of promoting tourism to Cuba. The visa was denied because the purpose of the travel, to promote trade in tourist services, was contrary to U.S. policy and therefore prejudicial to the national interest. The U.S. Government was also aware of Cuban plans to host a Conference of International Travel Agents, which in fact was held in Havana June 8-12, 1982, attracting 670 delegates, representing 195 tour agencies, from 23 countries including the United States. The American Society of Travel agents had also inquired on behalf of Cuba whether Cuba could mount an exhibition promoting travel to Cuba at the Society's 52nd World Travel Congress in Miami, October 10-16, 1982. Following the relaxation of licensing criteria on travel-related financial transactions in 1977, Cuba began to develop plans for exploiting the U.S. tourist market as a significant source of convertible currency. One objective was development of a tourism complex on Cayo Largo and possibly on two other cays with fresh water available. Cayo Largo was to be a "free port", isolated from the rest of Cuba and staffed by selected personnel. There were to be gambling casinos and special attractions not available elsewhere in the country. In all, the 1981-85 five year plan called for inaugurating 22 new hotels with 2,800 rooms and recovering or improving an additional 6,900 rooms. Legislative Decree 50, an exceptional measure for a communist country, authorized Joint Ventures with 49 percent, or even more, foreign ownership. It was intended to attract foreign hard currency investments primarily in tourist-related infrastructure, and there were to be promotional campaigns in primary markets, especially the U.S.

9. There were other indications of Cuba's intention to promote tourism as a major industry. The primary source of this projected increase was to have been the United States. The restrictions on financial transactions related

to tourism and general business travel in May 1982 were intended to forestall this development and to prevent Cuba from developing a major source of foreign currency.

10. While tourism has not been an important earner of foreign exchange for the Castro Government in Cuba, tourism was a significant revenue source prior to 1958 and could be again. According to hearings before the Subcommittee on Interstate and Foreign Commerce, House Interior Committee, March 28, 29, 30, and April 11, 12, 1961, in 1958 Cuba earned $37 million from travellers from the United States alone, equal to about two percent of its gross national product and almost four percent of foreign exchange earnings. It then had the highest tourism income of any country in the Caribbean. The tourist trade was Cuba's second largest industry, and travel from the United States was easily the largest component of that industry. The proximity of the United States along with the size and affluence of its population makes it by far the key market for Cuba. This was recognized by the U.S. Government in 1963, and the tourist trade was accordingly suspended in connection with the imposition of other economic restrictions.

11. Cuba enjoys a significant advantage over free world countries competing with it for the U.S. tourist market. Cuba, itself heavily subsidized by the USSR, can subsidize tourism, offering low prices in the interest of attracting convertible currency. This would enable Cuba to compete to its advantage on unfair terms with other countries in the region for the U.S. tourist market. Convertible currency is the focus of U.S. economic measures because it is susceptible to U.S. efforts and because, while only 20 percent of Cuba's foreign exchange earnings are in hard currencies, the importance of these earnings is far in excess of their nominal value, because Cuba uses convertible currencies to buy goods critical to the efficient operation of its economy, such as machinery and transport equipment for key industries. Premier Castro specifically confirmed this analysis in a speech on July 26, 1982.

12. Cuban data show that in 1979 there were 159,440 tourist visits, earning Cuba 71.5 million pesos. This was cut in half, to 79,518 earning 31.6 million pesos in 1980 by unilateral Cuban action because most of those travelling were Cuban-American citizens and residents of the United States, and the major influx of affluent, free former residents was causing social instability among the Cuban populace. Anxious, however, to earn tourist dollars, Cuba sought to devise a strategy which would discriminate against politically unacceptable citizens and residents of this country who were of Cuban origin in favor of politically acceptable tourists. In effect, Cuba sought to discriminate against a class of Americans because of their national origin, yet earn income from other Americans.

13. As noted above, the purpose of tightening licensing criteria in May, 1982 was not to prevent travel to Cuba. It was recognized that certain persons would have legitimate need to expend funds in connection with such travel and such persons, therefore, remained under general license. The largest such group consisted of persons travelling for the purpose of family reunification; Government officials, journalists, sports and artistic travellers and researchers were others authorized under general license to expend funds. A further refinement, based on the objective of denying income to Cuba, authorized under general license all travel fully hosted by the Cuban Government or other Cubans.

14. Travel statistics show that imposition of these measures has not prevented travel to Cuba, which in fact has increased rather than diminished since their effective date of May 15, 1982. However, the pattern indicates that tourism as a component of travel was reduced. There was about an 18 percent increase in tourist travel to Cuba during January-March, 1982 compared to the same period of 1981. This was prior to the change of licensing criteria. However, the last quarter of 1982, October through December, shows a drop of about 45 percent compared to the same quarter in 1981. The measures there-

fore appear to have denied to the Cuban Government the increased revenues which it would otherwise have earned had the controls had not been enacted. Cuban efforts to redevelop tourism as a major industry, have largely been thwarted and the availability of convertible currency needed to buttress Cuba's foreign policy has thereby been reduced.

15. Since publication of the 1st Circuit decision of May 23, 1983, the Cuban government appears to have reinitiated efforts to promote U.S. tourism to Cuba. One indication was a May 27, 1983 approach to this Department by Mexicana de Aviacion expressing interest in providing charter aircraft to HAVANATUR, a Cuban government agency, for weekly tours from Miami to Havana. Another was the expression by a Texas operator of tours to Cuba, to the Treasury Department, of the intent to begin again offering tours in cooperation with Cuban authorities.

16. If the injunction against application of the Department of the Treasury regulations is permitted to stand, serious damage could result for U.S. foreign policy interests in the Caribbean and Central America. The resultant flow of convertible currency would assist Cuba in the conduct of its foreign policy at a time when Cuba is aggressively engaged in attempting the overthrow of democratic governments in the region which are friendly to the United States.

17. Accordingly, the regulations serve important foreign policy interests of the United States. An injunction against their application would substantially harm these interests, rendering encouragement to the Cuban Government and contributing to its foreign policy objectives.

I state under penalty of perjury that the foregoing is true and correct.

/s/ Thomas O. Enders
THOMAS O. ENDERS

Executed on June 3, 1983
Washington, D.C.

IN THE SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1982

DONALD REGAN, ET AL., APPLICANTS

v.

RUTH WALD, ET AL.

DECLARATION OF JAMES H. MICHEL

JAMES H. MICHEL, under penalty of perjury, declares and says as follows:

1. I am James H. Michel, Acting Assistant Secretary of State for Inter-American Affairs. I am responsible for the implementation of United States foreign policy with respect to Cuba, Central and South America, and the Caribbean region, under the direction of the President and the Secretary of State.

2. I make this declaration, which is based upon information known to me, to explain the adverse consequences of allowing a preliminary injunction against enforcement of certain Treasury Department regulations concerning licensing of transactions related to business and personal travel to Cuba to take effect in the First Circuit in the case of *Wald* v. *Regan*, No. 82-1695, and to remain in effect even for a short time.

3. It is the long-standing objective of the United States and the intention of this Administration to influence the Government of Cuba to cease its unacceptable behavior internationally and towards the United States. In particular, it is a primary objective of this Administration to deter Cuba from attempting to destabilize the Central American and Caribbean region. A central source of

leverage the United States has over Cuba lies in the power of the United States to prohibit persons subject to U.S. jurisdiction from engaging in various economic activities with Cuba or its nationals that would benefit Cuba. This is consistent with decisions taken under the Inter-American Treaty of Reciprocal Assistance (Rio Treaty) and congressional declarations. The individual regulations are intended to have a particular effect on Cuba, e.g., restricting its access to hard currency, in part to constrain its ability to finance revolutionary movements in Central America and the Caribbean Region, and to dissociate the United States from contributing to such Cuban adventures.

4. This program, as implemented by comprehensive regulations issued under the Trading with the Enemy Act (TWEA), has been maintained for twenty years. During this period, this regulatory scheme has proven to be a flexible and essential instrument of United States foreign policy. It enables the Executive to respond promptly to Cuban actions. In addition, through fine-tuning of the regulations, the scheme has served to buttress U.S. diplomatic initiatives.

5. This government's Cuba policy can only succeed if the Cuban Government is persuaded that the consistency of U.S. policy and its implementation will be maintained in the face of Cuba's continued intransigence, and that modification of unacceptable conduct is the sole way to effect favorable change in our bilateral relations. For the past twenty years, the Cuban Government has had to confront and consider the diplomatic fact that the United States could respond to Cuban misbehavior swiftly and flexibly through the use of TWEA authorities. For twenty years, the Executive's consistent and unambiguous ability to act under TWEA has been a fact of independent foreign policy significance. Issuance of the First Circuit's mandate would undercut this fact by casting doubt on the Executive's continued ability to use TWEA authorities even beyond the particular restrictions on financial

transactions incident to certain types of travel which are immediately at issue.

6. The utility of these TWEA authorities has been demonstrated in the actual conduct of U.S. foreign policy. For example, in 1977, the United States issued a general license for transactions related to travel to Cuba (which had previously been prohibited) in the hope that this effort to improve relations would lead to some reciprocal action by Cuba. In 1982, it was clear that Cuban conduct had not changed and that Cuba was in fact increasing its efforts to overthrow governments in the region. For this reason, the United States decided to place limitations on the general license for transactions related to commercially-significant travel to Cuba, i.e., business and tourist travel. However, these limitations were tailored to give Cuba incentives to permit other types of travel for humanitarian and academic purposes, such as family reunification visits. (When tourist travel was allowed under the general license, Cuba limited these visits.) TWEA authorities were also critical in responding to the actions of the Cuban Government which resulted in the 1980 Mariel boatlift. A new regulation was promulgated to prohibit certain transactions in connection with the transportation of undocumented Cuban aliens to the United States.

7. While the United States would seek to limit the effect of the appellate decision on the licenses at issue to the extent possible, pending a definitive resolution of the underlying legal questions, issuance of the mandate will engender considerable uncertainty among the law-abiding public. Some will immediately seek to travel to Cuba. Others will conclude that the entire embargo program is eroding and that the post-1977 regulations may be ignored. Already we are aware of cases in which persons have stated their intent not to comply with other regulations concerning commercial transactions on the basis of this decision. This public perception will give rise to a serious enforcement problem, and will undoubt-

edly reduce the level of voluntary compliance on which the program has depended in large part. We expect Cuba to exploit this public perception almost immediately, as it has in past cases when it perceived that the U.S. was having difficulties in maintaining respect for U.S. laws. For example, in 1980, as soon as Cuba realized that a few U.S. boat operators who had brought undocumented persons from Cuba were not being successfully prosecuted, it quickly arranged the departure of thousands of Cuban nationals to the U.S. from Mariel harbor. Cuba is likewise capable of establishing rapidly a tourism program to maximize economic benefits from travel permitted by the court's decision. Any additional amount of hard currency is important to the Cuban economy to help meet short-term needs. In addition, Cuba would have the opportunity of making business and other contacts which would undercut the effectiveness of other portions of the regulations which these restrictions were designed to complement.

8. The perception of the Cuban Government that the ability of the United States to rely on its law enforcement authority is suspect will harm U.S. foreign policy interests. The United States is engaged in a number of diplomatic initiatives with Cuba in which legal controls are a factor. For example, the United States has asked Cuba to accept the return of certain persons who had left during the Mariel boatlift. We have informed Cuba that once these persons have been returned, the U.S. would be prepared to relax certain immigration controls under U.S. law. If Cuba is encouraged to conclude that it need not bargain for advantageous changes in U.S. legal controls and that litigation could successfully impede implementation of U.S. policy, such initiatives would be undercut.

9. The Executive has no alternative to the use of TWEA authorities which would achieve the same foreign policy goals. Invoking IEEPA, with its attendant declaration

of a national emergency and requirement of a Presidential assertion of "an unusual and extraordinary threat" to the United States, 50 U.S.C. § 1703(b)(2) (Supp. II 1978), is an act with distinct foreign policy significance with major international implications beyond the U.S. relationship with Cuba. The decision to use grandfathered TWEA authorities rather than to invoke IEEPA was based on the Executive's determination of the source of authority that would best serve the foreign policy interests of the United States. Constraining the Executive's choice of authorities, in the absence of a definitive resolution of the underlying legal issues involved, would therefore disserve these interests.

10. The United States is continually reviewing the effectiveness of the implementation of its policies with respect to Cuba. New diplomatic developments could call for immediate refinements in the regulatory structure. Allowing the mandate to issue would cloud the effectiveness of any new initiatives promulgated under TWEA. Therefore, as a practical matter, the United States would be unable to take actions to implement its Cuban policy which are untainted by perceptions of legal ambiguity. This situation would prevail until sometime in the fall when this Court would decide on a petition for certiorari. Likewise, in any discussion of bilateral issues which might take place with Cuba in the next several weeks, the position of the United States would be weakened by Cuba's realization that an important source of Executive authority has been put in question. The Executive is thus deprived of a flexible and long-standing foreign policy instrument. This deprivation constitutes a serious impairment to the conduct of U.S. foreign policy, which Cuba can be expected to exploit rapidly.

11. Accordingly, in the opinion of those responsible for the execution of U.S. foreign policy, allowing the mandate to issue and the preliminary injunction to take effect would do significant and irreversible harm to U.S. foreign policy.

I state under penalty of perjury that the foregoing is correct.

/s/ James H. Michel
JAMES H. MICHEL
Acting Assistant Secretary of State
For Inter-American Affairs

Executed on June 23, 1983,
Falls Church, Va.

Notary at Large, State of Virginia
June 23, 1983

/s/ Brenda M. Anderson
My Commission Expires August 21, 1984

IN THE SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1982

DONALD REGAN, ET AL., APPLICANTS

v.

RUTH WALD, ET AL.

DECLARATION OF JOHN M. WALKER, JR.

John M. Walker, Jr., under penalty of perjury, declares and says as follows:

1. I am the Assistant Secretary (Enforcement & Operations) of the United States Department of the Treasury. One of my responsibilities is to supervise Treasury's Office of Foreign Assets Control. Pursuant to a delegation of the President's powers under the Trading With the Enemy Act, this office implements the United States' economic embargoes of Cuba, Vietnam, Kampuchea and North Korea.

2. This declaration is based upon knowledge from the performance of my official duties. I am making it to explain how Treasury's enforcement of the embargoes will be irreparably harmed if a stay is not issued in the First Circuit case of *Wald* v. *Regan*, No. 82-1695.

3. Last year the Treasury Department modified a license in the Cuban Assets Control Regulations to prevent an outflow of dollars to Cuba. Without a stay, this dollar flow will resume, as pointed out in the declarations of the Assistant Secretary of State Thomas O. Enders and myself, which were filed in the First Circuit with the petition for rehearing. Once spent, those dollars cannot be retrieved from the Cubans. There have already been published news stories and tour advertisements indicating

that anyone can now travel to Cuba (TABS A and B). We have been informed by one Texas-based fishing tour operator that he is resuming his former business of organizing tour groups of Americans to travel to Cuba to fish and hunt, and we expect others to follow. However, my concern extends beyond tourist and business travel-related transactions with Cuba and, because the Trading With the Enemy Act is a criminal statute, my concern cannot be limited to impacts of the *Wald* decision solely in the First Circuit.

4. The Treasury Department depends heavily upon voluntary compliance with its published regulations by persons subject to United States jurisdiction. Such voluntary compliance is encouraged by the perception that a solid legal foundation underlies Treasury's embargo authorities. If a stay is not granted pending Supreme Court consideration of a petition for certiorari, the First Circuit's decision will raise serious doubts concerning several very important post-July 1, 1977 adjustments to the Cuban embargo. Respect for and compliance with the embargo controls are likely to decrease. Many more persons than we can detect will use the confusion created by a District Court injunction based on the *Wald* decision to violate embargo regulations promulgated since July 1, 1977, and claim a lack of the willful intent required for a successful prosecution under the Trading With the Enemy Act. So far, the Office of Foreign Assets Control has been able to hold off significant amounts of travel-related and other embargoed transactions with the Cubans by issuing a press release and answering press and public inquiries with emphasis on the fact that no injunction has been issued to bar enforcement. If a stay is denied, that line of embargo violation containment will be broken. Once broken, it will be difficult to re-establish, even if the Supreme Court upholds the Presidential authority at issue here.

5. In particular, the *Wald* opinion might be perceived as throwing into question the President's ability under

the Trading With the Enemy Act to prevent another Mariel type boatlift of illegal Cuban aliens to the United States. The provision of the Regulations that specifically addresses transactions relating to transportation of such aliens was promulgated in 1980. The undermining of the President's authority to stop an influx of illegal foreign aliens into the United States is a matter of grave national concern.

6. Less dramatic, but an essential part of the day-to-day operation of the embargo programs, is the public reaction that the *Wald* decision has provoked, as exemplified by the attached letter (TAB C) of May 27, 1983, from Donald E. Ward. That letter, which cites the *Wald* decision, questions whether the government can now require a specific, case-by-case licensing procedure for common carriers' telecommunications business with Cuba when a general license had applied on July 1, 1977. The public perception that the Treasury Department does not have authority to enforce the regulation concerning travel-related transactions, and other embargo regulations, can be extremely detrimental to our embargo programs.

7. The *Wald* opinion is being raised in disparate foreign assets control cases having nothing to do with individual travel. The issue of Treasury's grandfathered authorities under the Trading With the Enemy Act has been injected into an appeal of a criminal conviction concerning the Mariel boatlift of illegal Cuban aliens to the United States. *United States* v. *Frade and Doss*, No. 82-5179 (11th Cir.). The *Wald* opinion has been cited also in the case of *American Airways Charters* v. *Regan*, Civil Action No. 82-3243, now pending in the U.S. District Court for the District of Columbia. In that case, an officer of a designated Cuban national company, himself convicted of Trading With the Enemy Act violations, has now invoked the grandfather issue in his attempt to deal in property of the blocked company without the license that Treasury regulations require.

8. The Treasury Department has made many adjustments to the Cuban, Vietnamese, Kampuchean and North Korean embargoes since 1977 when the Trading With the Enemy Act authorities that were being exercised were grandfathered. So far as I have been able to determine, no member of Congress or even a Congressional staff person has at any time questioned any of those embargo adjustments as exceeding the grandfathered authority. These adjustments were all made openly, published in the *Federal Register* and subjected to public and Congressional scrutiny. Prior to the time the plaintiffs brought this action, none of these adjustments was challenged in any way by anyone on grandfathering grounds.

9. In sum, it is my firm belief that a stay is essential to avoid irreparable damage to the Treasury Department's enforcement of the embargo on Cuba (and the embargoes on Vietnam, Kampuchea and North Korea) while this case is being considered by the Supreme Court.

I declare, under penalty of perjury, that the foregoing is true to the best of my knowledge and belief.

/s/ John M. Walker, Jr.
JOHN M. WALKER, JR.
Assistant Secretary
(Enforcement & Operations)
United States Department of
the Treasury

Executed on June 23, 1983
Washington, D.C.

TAB A

WASHINGTON POST—May 17, 1983, Page A2

COURT LIFTS RESTRICTIONS ON U.S. TRAVEL TO CUBA

By Mary Thornton

Washington Post Staff Writer

A federal appeals court in Boston yesterday cleared the way for travel to Cuba by U.S. citizens, throwing out Reagan administration trade regulations that had the effect of preventing travel there by most Americans.

Bert Neuborne, legal director for the American Civil Liberties Union, a party to the suit, said last night that "anyone who wants to go to Cuba can go now."

Regulations issued in April, 1982, by the Treasury Department in effect had prohibited travel to Cuba by almost all Americans with the exception of professionals, journalists and people with relatives on the island. Tourist and business travel was virtually eliminated.

A lawsuit against the regulations was filed in U.S. District Court in Boston by Harvard biology professor Ruth Hubbard Wald, who had planend to take a group of students to Cuba last summer, and by other individuals and groups interested in traveling there.

The regulations were upheld by the District Court. Yesterday, the 1st U.S. Circuit Court of Appeals ordered the lower court to issue a preliminary injunction against the regulations.

Leonard B. Boudin, chief lawyer for Wald and the other plaintiffs, argued that the Treasury regulations "prohibited travel that had been permitted under the Carter administration" and interfered with a citizen's constitutional right to travel.

The appeals court opinion said that in drawing up the regulations Treasury relied on the 1917 Trading with the

Enemy Act, "the relevant part of which had been repealed by the time it [Treasury] promulgated this regulation."

The administration had argued that a clause of the 1977 International Economic Powers Act allowed Treasury to use the 1917 act to issue the regulations.

But the appeals court said that the 1917 law does not apply and that the procedures under the 1977 act were not properly followed "The regulations thus lack statutory authority," the court said.

The regulations prohibited most Americans from paying for "transportation-related" expenses "ordinarily incident to travel to and from Cuba" and for any other expenses "ordinarily incident to travel within Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there."

Neuborne said that the 1917 trade act was intended to allow the United States "to deny hard currency to countries when the president determines our interests would be harmed by that trade."

Brad Marman, a spokesman for the Justice Department, said last night that there has been no decision whether to appeal the case to the Supreme Court.

TAB B

BASS TOURS, LTD.
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CUBA IS OPEN AGAIN

JUSTICE PREVAILS. A three Judge U.S. Court of Appeals panel threw out the Treasury Department rules that banned travel to Cuba. The court ruled that the Treasury regulations violated the Constitutional RIGHT TO TRAVEL.

BASS TOURS LTD. will be offering fishing, hunting and dive package tours to LAKE HANABANILLA, LAKE REDONA, LAKE ZAZA, and LAKE CUYAGUATEJE. In November we plan to open a new area called LAKE LEONARO. THE LAST PARADISE KEYS FLOATING HOTEL will be the site for scuba diving, bonefish, and tarpon.

For the time being, tours will depart from CANCUN, MEXICO, the hottest tourist spot in the world today. Later charter flights will be added with a departure from Nassau in the Bahamas (this is a great depature point for those who enjoy gambling). And as soon as it is possible, we hope to add departures from MIAMI and FT. LAUDERDALE, FLORIDA. Unfortunately it takes a little while for the charter services to get all of their necessary paper work complete for both the U.S. and Cuban governments.

I just returned from Lake Hanabanilla where Steve Shoulders (resident Pro) and I landed a 13½, 12, 2-11½, 11, and a 10 pound bass. All were released. In addition to these unbelievable statistics, Arnoldo Francisco, a bellman at the Hanabanilla Hotel caught a 20 pound bass on April 28th. There is a remarkable story about this catch that will be printed in our next newsletter.

Dove and pigeon hunting start on July 25th, and duck season opens the first week in October. 50 new blinds have been constructed during our one year lay off.

The cost this year will be $995. for a 7 night/8 day package plan. For additional information on how you can be one of the first Americans back into CUBA, just pick up the phone and give me a call.

Bass wishes,

/s/ Dan Snow
DAN SNOW

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CUBA NOW OPEN

Bass Fishing—Lake Hanabanilla, Cuba

This is the best lake in the world today for large bass. The first group to fish this lake caught 69 bass over 10 lbs. Dan Snow and Steve Shoulders fished this lake recently. Dan landed a 13½ pounder and Steve got one 15 pounds. Both had larger bass on that they didn't land. A Cuban landed a 20 pounder while they were there. If there is a world record bass anywhere, it's in this lake according to Dr. Roy Heidinger, one of the top bass research experts in the world. Trips run from Sunday to Sunday starting May 29th. Cost $995.00 includes transportation to Cuba and return, five and one half days fishing with modern bass boats and American motors and Cuban guides, hotel accommodations, food and transportation in Cuba. It does not include Cuban Visa or fishing license (approximately $20.00) or beer while fishing. Point of departure for Cuba has not been determined at this time.

Bass Fishing—Lake Guerrero, Mexico

Lots of one to five pound bass. Fifty to one hundred per day catches are common. Accommodations, food, boats, motors and guides are excellent. Cost approximately $160.00 per day. Includes fishing, accommodations, food, boats, guides and motor. Does not include tips at lodge or transportation to the lake.

Peacock Bass Fishing—Lake Gatun, Panama

This is a super trip for husbands and non fishing wives. Fishing is super on one to five pound. One hundred bass per day is common. Accommodations are excellent. You stay at a first class hotel in downtown Panama City. Sight seeing and shopping is excellent for non fishermen. Las Vegas type gambling is legal and very popular. Cost $675.00. Includes three days fishing, four nights at first class hotel, American boats and motors and Panamanian guides, lunch while fishing. Transportation in Panama. Does not include tips, transportation to Panama and return, meals other than lunch while fishing.

Peacock Bass and Payara Fishing—Orinoco River—Colombia, S.A.

This is the best trip we know about for huge fish. Twelve of us made this trip last June. We caught Peacock bass up to 21 pounds and Payara up to 24 lbs. The world record has been broken here several times in the past two years. Everyone in our group caught a fish of fifteen pounds or better. Peacocks in the ten to twenty pounds are common and also Payara in the fifteen to twenty five pounds. Trip only runs from early January to late March. We have the first two trips booked in early January 1984. This is the best fresh water fishing you will ever see. It takes lots of patience getting there and returning. You spend the first and last nights of the trip in Bogata. The Orinoco is approximately 3½ hours from Bogata. Cost $1,495.00. Includes six days fishing with native boat, American motors and Indian guides, accommodations are on a house boat. Facilities are crude but adequate. Food is American style and fair to good. All drinking water is boiled. Accommodations are very clean. Cost does not include transportation to the Orinoco, hotel at Bogata, beer and coke or tips. Trips run from Saturday to Saturday at the Orinoco. Many times you are fishing virgin waters.

TAB C

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WARD & MENDELSOHN, P.C.
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Washington, D.C. 20006

May 27, 1983

Mr. Dennis M. O'Connell
Director, Office of Foreign Assets Control
Department of the Treasury
1331 G Street N.W.
Washington, D.C. 20220

Re: Wold Communications, Inc.;
Provision of Communications
Service to Cuba Incident to
1984 Olympic Games

Dear Mr. O'Connell:

By our letter of April 11, 1983, we set forth the arrangements between our client, Wold Communications, Inc., and La Empressa de Telecommunicaciones Internacionales de Cuba (EMTELCUBA), looking toward Wold's provision of communications services to EMTELCUBA during the 1984 Olympic Games. Based on our understanding of 31 CFR § 515.542, we stated that "it appears as though we need a specific license in order to provide the service and receive the U.S. dollar remuneration from EMTELCUBA," and requested such a specific license. To date, no action has been taken on that request, despite our April 26 letter (providing additional information requested by your deputy, Ms. Muench), requesting action promptly.

In the meantime, on May 16, 1983, the U.S. Court of Appeals for the First Circuit issued its opinion in *Wald* v. *Regan* (Case No. 82-1695), directing the U.S. District Court to enjoin the Department of the Treasury from

enforcing 31 CFR § 515.560, which purported to restrict transactions involving travel to Cuba. While the Department has unofficially taken the position that the Court's opinion "has no bearing on non-travel aspects of the comprehensive trade and financial embargo against Cuba, which has been in effect since 1963" (Treasury News release of May 19, 1983), our reading of that opinion, together with the history of § 515.542, leads us to the view that the 1980 amendment to that regulation—by which, *inter alia*, communications from the United States to Cuba would no longer be generally licensed but for the first time would require a "specific" license—is invalid for the identical reasons found by the Court to vitiate § 515.560.

As the *Wald* opinion notes (Slip Opinion, p. 5), the 1977 repeal of the 1917 Trading With the Enemy Act contained a "savings clause" stating:

> "[T]he authorities conferred upon the President by [the old version of] section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country . . . (91 Stat. at 1625).

As of the relevant date of July 1, 1977, the Treasury regulations provided for a "broad, general license allowing all persons traveling to Cuba to pay for their transportation and living expenses" (*Ibid*). The Court found that the subsequent amendment of those regulations to bar transactions in connection with travel to Cuba except upon the issuance of a specific license were not "saved" by the savings clause, and, since not adopted as otherwise required by 1977 International Emergency Economic Powers Act (50 U.S.C. §§ 1701-06), were invalid.

Precisely the same situation obtains as to § 515.542:

(1) As of July 1, 1977, that section conferred a general license for "all transactions of common car-

riers incident to the receipt or transmission of mail or telecommunications between the United States and Cuba."

(2) The August 24, 1980 amendment of § 515.542 purported to limit the general license to mail, and to the "use of satellite channels for the transmission of television news and news programs originating in Cuba by United States news organizations," and to otherwise require specific licenses for other communications services between the United States and Cuba. That amendment—like the 1982 amendments to § 515.560—did not follow the consultative procedures mandated by the IEEPA: As with the 1982 travel restrictions, the Department relied upon Section 5 of the Trading With the Enemy Act, although that had been repealed three years earlier.

In view of the foregoing, it is our current position that no specific license is required by our client to enable its furnishing to EMTELCUBA the communications services outlined in our letters of April 11 and 26, 1983, in connection with the 1984 Summer Olympics. We would welcome an early expression of the Department's views on this issue, however. Because of the extensive coordination which we anticipate will be required in order that our client may handle in a professional manner the large volume of communications services incident to the 1984 Olympics which have been requested of it, it is essential that it obtain an early resolution of the status of its arrangement with EMTELCUBA.

Please do not hesitate to contact me in the event of any questions concerning this matter.

Very truly yours,

/s/ Donald E. Ward
DONALD E. WARD

cc: Ms. Marilyn Muench
Mr. Timothy C. Brown

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SUPREME COURT OF THE UNITED STATES

No. 83-436

DONALD REGAN, SECRETARY OF THE TREASURY, ET AL., PETITIONERS

v.

RUTH WALD, ET AL.

ORDER ALLOWING CERTIORARI

Filed November 28, 1983

The petition herein for a writ of certiorari to the United States Court of Appeals for the First Circuit is granted.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1983 429469 317